

Contract Summary Sheet

Contract (PO) Number: 4919

Specification Number: 22001

Name of Contractor: HOWARD THEATER LIMITED

City Department: PLANNING & DEVELOPMENT

Title of Contract: Howard theater 1615-43 W. Howard

Dollar Amount of Contract (or maximum compensation if a Term Agreement) (DUR):

\$878,200.00

PO Start Date: 11/23/98

PO End Date: 10/1/11

Brief Description of Work: Howard theater 1615-43 W Howard

Procurement Services Contact Person: BARBARA SUTTON

Vendor Number: 50056301

Submission Date:

MAR 10 2004

EXECUTION COPY

TIF = 4878,200

MSL34:\HWDTHR\REDEGVAGT.1 (5/22/98)

HOWARD THEATER REDEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF CHICAGO

AND

HOWARD THEATER LIMITED PARTNERSHIP

This agreement was prepared by
and after recording return to
M. Susan Lopez, Esq.
City of Chicago Law Department
121 North LaSalle Street, Room 511
Chicago, IL 60602

TABLE OF CONTENTS

| | <u>PAGE</u> |
|--|-------------|
| SECTION 1. RECITALS | 3 |
| SECTION 2. DEFINITIONS | 3 |
| SECTION 3. THE PROJECT | 9 |
| 3.01 The Project | 9 |
| 3.02 Scope Drawings and Plans and Specifications | 9 |
| 3.03 Project Budget | 9 |
| 3.04 Change Orders | 9 |
| 3.05 DPD Approval | 10 |
| 3.06 Other Approvals | 10 |
| 3.07 Progress Reports and Survey Updates | 10 |
| 3.08 Inspecting Agent or Architect | 11 |
| 3.09 Barricades | 11 |
| 3.10 Signs and Public Relations | 11 |
| 3.11 Utility Connections | 11 |
| 3.12 Permit Fees | 11 |
| SECTION 4. FINANCING | 12 |
| 4.01 Total Project Cost and Sources of Funds | 12 |
| 4.02 Developer Funds | 12 |
| 4.03 City Funds | 12 |
| 4.04 Reimbursement of Developer for TIF-Funded Improvements | 13 |
| 4.05 Treatment of Prior Expenditures and Subsequent Disbursements | 13 |
| 4.06 Cost Overruns | 14 |
| 4.07 Developer Funds | 14 |
| 4.08 Applicable Base EAV | 14 |
| SECTION 5. CONDITIONS PRECEDENT | 15 |
| 5.01 Project Budget | 15 |
| 5.02 Scope Drawings and Plans and Specifications | 15 |
| 5.03 Other Governmental Approvals | 15 |
| 5.04 Financing | 15 |
| 5.05 Evidence of Clean Title | 15 |
| 5.06 Surveys | 16 |
| 5.07 Insurance | 16 |

| | | |
|------------|---|----|
| 5.08 | Opinion of the Developer's Counsel | 16 |
| 5.09 | Financial Statements | 16 |
| 5.10 | Documentation | 16 |
| 5.11 | Environmental | 17 |
| 5.12 | Corporate Documents | 17 |
| 5.13 | Litigation | 17 |
| SECTION 6. | AGREEMENTS WITH CONTRACTORS | 18 |
| 6.01 | Bid Requirement | 18 |
| 6.02 | Construction Contract | 18 |
| 6.03 | Performance and Payment Bonds. | 19 |
| 6.04 | Employment Opportunity | 19 |
| 6.05 | Other Provisions | 19 |
| SECTION 7. | COMPLETION OF CONSTRUCTION OR REHABILITATION | 19 |
| 7.01 | Certificate of Completion | 19 |
| 7.02 | Effect of Issuance of Certificate; Continuing Obligations | 20 |
| 7.03 | Notice of Expiration of Term of Agreement | 20 |
| SECTION 8. | COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER. | 20 |
| 8.01 | General | 21 |
| 8.02 | Covenant to Redevelop | 23 |
| 8.03 | Redevelopment Plan | 23 |
| 8.04 | Use of City Funds | 23 |
| 8.05 | Other Bonds | 23 |
| 8.06 | Job Creation and Retention; Use of the Facility; Covenant to Remain in the City. | 23 |
| 8.07 | Employment Opportunity | 24 |
| 8.08 | Employment Profile | 24 |
| 8.09 | Prevailing Wage | 24 |
| 8.10 | Arms-Length Transactions | 25 |
| 8.11 | Conflict of Interest | 25 |
| 8.12 | Disclosure of Interest | 25 |
| 8.13 | Financial Statements | 26 |
| 8.14 | Insurance | 26 |
| 8.15 | Non-Governmental Charges | 26 |
| 8.16 | Developer's Liabilities | 27 |
| 8.17 | Compliance with Laws | 27 |
| 8.18 | Recording and Filing | 27 |
| 8.19 | Real Estate Provisions. | 27 |
| 8.20 | Survival of Covenants | 31 |

| | | |
|-------------|---|----|
| SECTION 9. | COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY | 31 |
| 9.01 | General Covenants | 31 |
| 9.02 | Survival of Covenants | 32 |
| SECTION 10. | DEVELOPER'S EMPLOYMENT OBLIGATIONS | 32 |
| 10.01 | Employment Opportunity | 32 |
| 10.02 | City Resident Construction Worker Employment Requirement | 33 |
| 10.03 | The Developer's MBE/WBE Commitment | 36 |
| SECTION 11. | ENVIRONMENTAL MATTERS | 38 |
| SECTION 12. | INSURANCE | 39 |
| SECTION 13. | INDEMNIFICATION | 45 |
| SECTION 14. | MAINTAINING RECORDS/RIGHT TO INSPECT | 46 |
| 14.01 | Books and Records | 46 |
| 14.02 | Inspection Rights | 46 |
| SECTION 15. | DEFAULT AND REMEDIES | 46 |
| 15.01 | Events of Default | 47 |
| 15.02 | Remedies | 48 |
| 15.03 | Curative Period | 49 |
| SECTION 16. | MORTGAGING OF THE PROJECT | 49 |
| SECTION 17. | NOTICE | 51 |
| SECTION 18. | MISCELLANEOUS | 52 |
| 18.01 | Amendment | 52 |
| 18.02 | Entire Agreement | 52 |
| 18.03 | Limitation of Liability | 52 |
| 18.04 | Further Assurances | 52 |
| 18.05 | Waiver | 52 |
| 18.06 | Remedies Cumulative | 52 |
| 18.07 | Disclaimer | 53 |
| 18.08 | Headings | 53 |
| 18.09 | Counterparts | 53 |
| 18.10 | Severability | 53 |
| 18.11 | Conflict | 53 |
| 18.12 | Governing Law | 53 |

| | | |
|-------|--|----|
| 18.13 | Form of Documents | 53 |
| 18.14 | Assignment | 53 |
| 18.15 | Binding Effect | 54 |
| 18.16 | Force Majeure. | 54 |
| 18.17 | Exhibits. | 54 |
| 18.18 | Business Economic Support Act. | 54 |
| 18.19 | Approval. | 54 |

LIST OF EXHIBITS

| | |
|-------------|--|
| Exhibit A | *Redevelopment Area |
| Exhibit B | *Property |
| Exhibit C | *TIF-Funded Improvements |
| Exhibit D | *Redevelopment Plan |
| Exhibit E | Construction Contract |
| Exhibit F | Schedule of TIF Payments to Developer |
| Exhibit G | *Permitted Liens |
| Exhibit H | *Project Budget |
| Exhibit H-1 | Construction Budget |
| Exhibit I | Approved Prior Expenditures |
| Exhibit J | Opinion of Developer's Counsel |
| Exhibit K | *Preliminary TIF Projection -- Real Estate Taxes |
| Exhibit L | Requisition Form |

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

(leave blank 3" x 5" space for recorder's office)

This agreement was prepared by and
after recording return to:
M. Susan Lopez, Esq.
City of Chicago Law Department
121 North LaSalle Street, Room 610
Chicago, IL 60602

HOWARD THEATER REDEVELOPMENT AGREEMENT

This Howard Theater Redevelopment Agreement (this "Agreement") is made as of this 24rd day of November, 1998, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Howard Theater Limited Partnership, an Illinois limited partnership (the "Developer").

RECITALS

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

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65

ILCS 5/11-74.4-1 et seq. (1992 State Bar Edition), as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions 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 "the City Council") adopted the following ordinances on December 11, 1996: (1) "Approval of Howard/Paulina Amended and Restated Redevelopment Project Area Number 1 Tax Increment Finance Program Redevelopment Plan and Project;" (2) "Designation of Howard/Paulina Amended and Restated Redevelopment Project Area Number 1 as a Redevelopment Project Area Pursuant to Tax Increment Allocation Redevelopment Act;" and (3) "Adoption of Tax Increment Allocation Financing for the Howard/Paulina Amended and Restated Redevelopment Project Area Number 1" (the "TIF Adoption Ordinance"), (collectively referred to herein as the "TIF Ordinances"). The TIF Ordinances amended and superseded the ordinances adopted by the City Council on October 14, 1988, establishing the original Howard/Paulina Redevelopment Project Area. The redevelopment project area, as amended (the "Redevelopment Area"), is legally described on Exhibit A hereto.

D. The Project: The Developer has contracted to purchase certain property known as the Howard Theater Building, located within the Redevelopment Area at 1615-43 West Howard Street, Chicago, Illinois 60626 and legally described on Exhibit B hereto (the "Property"), and, within the time frames set forth in Section 3.01 hereof, shall commence and complete the rehabilitation of the Property for (1) a residential project consisting of the creation of ~~approximately 40 Affordable Rental Units (as defined below), 40 percent of which will be elevator accessible, comprising approximately 30,000 square feet of the Howard Theater Building and 11 parking spaces~~ and (2) a commercial project consisting of the creation of ~~approximately 10 commercial storefront spaces with new facades, comprising approximately 16,000 square feet of the Howard Theater Building~~ (collectively, the "Facility"). The Developer expects to sell approximately 19,000 square feet of land and the existing structure thereon commonly known as the Howard Auditorium (such land and the Howard Auditorium shall be referred to herein as the "Howard Square Property"), currently part of the Property, pursuant to the Real Estate Sales Contract (as hereinafter defined). Upon the closing of the Real Estate Sale Contract, the

term "Property" shall no longer include the Howard Square Property. 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 Howard Paulina Redevelopment Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan") attached hereto as Exhibit D, as amended from time to time.

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

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

SECTION 1. RECITALS

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

SECTION 2. DEFINITIONS

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

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

"Affordable Rental Units" shall mean units in the Facility having 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. As used in this definition, "Family" shall mean one or more individuals, whether or not related by blood or marriage; and "Low Income Families" shall mean Families whose annual income does not exceed eighty percent (80%) 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.

"Applicable Base EAV" shall mean the equalized assessed valuation of the Property as determined pursuant to Section 4.08 hereof.

"Available Incremental Taxes" shall mean an amount equal to the positive difference, if any, between (a) Incremental Taxes deposited in the Howard-Paulina TIF Fund attributable to the taxes levied on the Property, beginning with the taxes levied in 1996, and (b) the amount of the Incremental Taxes deposited in the Howard-Paulina TIF Fund attributable to the Applicable Base EAV.

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

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

"City Fee" shall mean the fee described in Section 4.05(c) 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.

"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.

"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).

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

"Facility" shall have the meaning set forth in Paragraph D of the Recitals hereto.

"Financial Statements" shall mean complete 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 a general contractor(s) eligible to do business with, and having an office located in the City of Chicago, 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.

"Howard-Paulina 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.

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

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

"Master Lease" shall mean that certain lease dated as of April 30, 1998 between the Developer, as landlord, and Howard Square

L.L.C., as tenant, pursuant to which Howard Square L.L.C. undertakes, among other things, to lease the commercial portion of the Project.

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

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

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

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

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

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

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

"Real Estate Sale Contract" shall mean that certain contract dated April 30, 1998 between Cornerstone Investment Group, Inc., an affiliate of the Developer, and Howard Square L.L.C. for the sale of the Howard Square Property, and any amendments thereto.

"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 Plan or otherwise referenced in the Plan.

"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 October 1, 2011, the date on which the Redevelopment Area is no longer in effect.

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

"Title Company" shall mean Chicago Title Insurance Company.

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

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

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

SECTION 3. THE PROJECT

3.01 - The Project. With respect to the Facility, the Developer shall, pursuant to the Plans and Specifications: (i) commence construction no later than forty-five days following the date hereof, subject to the issuance of required permits; and (ii) complete construction and conduct business operations therein no later than fifteen months following the date of commencement of construction.

3.02 Scope Drawings and Plans and Specifications. At least 30 days prior to the Closing Date, the Developer has delivered the Scope Drawings and Plans and Specifications to DPD and DPD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DPD as a Change Order pursuant to Section 3.04 hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan as amended from time to time and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 Project Budget. The Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than Three Million Seven Hundred Ninety Thousand Dollars (\$3,790,000). The Developer hereby certifies to the City that it has Lender Financing and Equity in an amount sufficient to pay for all Project Costs and that the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

3.04 Change Orders. Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) must be submitted by the Developer to DPD for DPD's prior written approval. The Developer shall not authorize or permit the performance of any work relating to such Change Order or the furnishing of materials in connection therewith

prior to the receipt by the Developer of DPD's written approval. The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. 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 DPD's prior written approval as set forth in this Section 3.04; provided, however, that (i) expenditures made from the [contingency/reserves] line item shall not be considered Change Orders so long as such expenditures relate to line items set forth on the Project Budget and (ii) DPD 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 DPD the source of funding therefor.

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

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

3.07 Progress Reports and Survey Updates. The Developer shall provide DPD with written monthly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section

3.04). The Developer shall provide three (3) copies of an updated Survey to DPD upon the request of DPD or any lender providing Lender Financing, reflecting improvements made to the Property.

3.08 Inspecting Agent or Architect. An independent agent or architect (other than the Developer's architect) approved by DPD shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Project; provided, however that DPD agrees to approve an independent agent or architect approved pursuant to the Lender Financing, provided further, that said architect is an independent architect licensed in the State of Illinois and is required to perform inspections with respect to the Project behalf of the City and the lender providing Lender Financing and to issue certifications with respect thereto jointly to the City and such lender prior to requests for disbursement for costs related to the Project.

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

3.10 Signs and Public Relations. 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, 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 \$3,790,000, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

| | |
|---|--------------------|
| Equity (subject to <u>Sections 4.03(b) and 4.06</u>) | \$1,100,000 |
| Lender Financing | 2,650,000 |
| Facade Rebate | <u>40,000</u> |
| ESTIMATED TOTAL | \$3,790,000 |

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 be used to reimburse the Developer for costs of TIF-Funded Improvements for the residential portion of the Project only. Exhibit C sets forth, by line item the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be reimbursed from City Funds for each line item therein (subject to Section 4.05(b)), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost. City Funds shall not be paid to the Developer hereunder prior to the issuance of a Certificate.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to reserve City funds, if any, 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 for the

residential portion of the Project on the dates set forth on the schedule attached hereto as Exhibit F:

| <u>Source of City Funds</u> | <u>Maximum Amount</u> |
|-----------------------------|-----------------------|
| Available Incremental Taxes | \$878,200 |

provided, however, that the total amount of City Funds to be used to reimburse the Developer for TIF-Funded Improvements shall be an amount not to exceed the lesser of Eight Hundred Seventy-Eight Thousand Two Hundred Dollars (\$878,200) or Twenty-Three and Seventeen One-Hundredths percent (23.17%) of the actual total Project costs, and provided further, that the City Funds to be derived from Available Incremental Taxes shall be available as set forth on Exhibit F to reimburse costs related to TIF-Funded Improvements only so long as the amount of the Available Incremental Taxes deposited into the Howard-Paulina TIF Fund shall be sufficient to reimburse such costs. In the event that this condition is not fulfilled, the amount of Equity to be contributed by the Developer pursuant to Section 4.01 hereof shall increase proportionately.

4.04 Reimbursement of Developer for TIF-Funded Improvements. Subject to (i) the availability of Available Incremental Taxes in the Howard-Paulina TIF Fund and (ii) the submission by the Developer of evidence of expenditure of such amounts for TIF-Funded Improvements, the City hereby agrees to reimburse the Developer pursuant to the schedule attached as Exhibit F upon submission of a request from the Developer in the form attached hereto as Exhibit L (the "Requisition Form"); provided, however, that no such reimbursement will be made to the Developer prior to the City's issuance of a Certificate.

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Prior Expenditures. Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "Prior Expenditures"). DPD shall have the right, in

its sole discretion, to disallow any such expenditure as a Prior Expenditure. Exhibit I hereto sets forth the prior expenditures approved by DPD as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to Section 4.01 hereof.

(b) City Fee. On an annual basis, the City may allocate a sum of up to 10 percent of the Incremental Taxes attributable to the Property for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area. Such fee maybe drawn by the City from the Howard-Paulina TIF Fund on an annual basis and shall be paid only after payments due Developer pursuant to Exhibit F have been paid to the Developer.

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

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

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

4.08 Applicable Base EAV. The Applicable Base EAV is \$274,802. In the event that the Howard Square Property is sold, the Applicable Base EAV shall be recalculated in a manner agreed to by the Developer and the City to allocate the proportion of the base equalized assessed valuation to the remaining Property.

SECTION 5. CONDITIONS PRECEDENT

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

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

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

5.03 Other Governmental Approvals. Prior to commencement of construction, the Developer shall have secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and shall submit evidence thereof to DPD.

5.04 Financing. The Developer shall have furnished proof reasonably acceptable to the City (including executed documents with respect to the Lender Financing) 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 shall have furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with the Equity set forth in Section 4.01 to complete the Project.

5.05 Evidence of Clean Title. Not less than five (5) business days prior to the Closing Date, the Developer, at its own expense, shall have provided the City with current searches under the Developer's name (and the following trade names of the Developer: _____) 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.

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

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

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

5.09 Financial Statements. Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided Financial Statements to DPD for its 1996 fiscal year, and unaudited interim financial statements.

5.10 Documentation. The Developer shall have provided to DPD the following: (1) documentation satisfactory in form and substance to DPD, with respect to current employment matters; and (2) an

executed copy of the Master Lease and subleases (at such time as such subleases become available) (3) an executed copy of the Real Estate Sales Contract; (4) an executed copy of the Guaranty dated April 30, 1998 from Hispanic Housing Development Corporation to the Developer; (5) an executed copy of the Indemnity Agreement dated April 30, 1998 from Urban Investment Trust, Inc. to Hispanic Housing Development Corporation; (6) an executed copy of the Subrogation Agreement among the Developer, Howard Square, L.L.C., Hispanic Housing Development Corporation and Urban Investment Trust, Inc., and any amendments to the aforementioned agreements.

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

5.12 Corporate Documents. The Developer shall provide a copy of its Articles or Certificate of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and all other states in which the Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; and such other corporate documentation as the City may request.

5.13 Litigation. The Developer shall provide to Corporation Counsel and DPD, at least ten (10) business days prior to the Closing Date, a description of all pending or threatened litigation or administrative proceedings involving the Developer, specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

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

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

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

(c) the Developer has approved all work and materials for the current disbursement request, and 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 City or the escrow agent, cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the TIF Ordinances, this Agreement and/or the Escrow Agreement.

SECTION 6. AGREEMENTS WITH CONTRACTORS

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

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

6.02 Construction Contract. Prior to the execution thereof, the Developer shall deliver to DPD a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with Section 6.01 above, for DPD's

prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. Within ten (10) business days after execution of such contract by the Developer, the General Contractor and any other parties thereto, the Developer shall deliver to DPD and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

6.03 Performance and Payment Bonds. Prior to commencement of construction, the Developer shall require that the General Contractor be bonded for its performance and payment by sureties having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. The City shall be named as obligee or co-obligee on such bond.

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

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

SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificate of Completion of Construction or Rehabilitation. Upon completion of the rehabilitation of the Project in accordance with the terms of this Agreement and after receipt of written evidence of the final disbursement from the Developer's construction escrow, and upon the Developer's written request, DPD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the rehabilitation of the Project in accordance with the terms of this Agreement. DPD shall respond to the Developer's written request for a Certificate within thirty

(30) 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.

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 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. 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 Notice of Expiration of Term of Agreement. Upon the expiration of the Term of the Agreement, this Agreement shall be of no further force and effect.

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

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

(a) the Developer is an Illinois 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) the Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary partnership action, and does not and will not violate its 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, the effect of which would materially and adversely affect Developer's ability to perform its obligations hereunder;

(d) unless otherwise permitted pursuant to the terms of this Agreement, the Developer shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property 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), provided, however, that the parties agree that the Developer may sell the Howard Square Property pursuant to the Real Estate Sale Contract;

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

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, or to Developer's knowledge,

threatened or affecting the Developer which would impair its ability to perform under this Agreement;

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

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

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

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; provided, however, that the parties agree that the Developer may sell the Howard Square Property pursuant to the Real Estate Sale Contract; (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; and

(k) the Developer has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Property other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property or any

fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget.

8.02 Covenant to Redevelop. Upon DPD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the 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.

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 Project, the proceeds of which are to be used to reimburse the City for expenditures made in connection with 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 Job Creation and Retention; Use of the Facility; Covenant to Remain in the City. (a) The Developer has entered into the Master Lease to provide for the leasing of the commercial

portion of the Facility. The Developer agrees to use its best efforts to ensure that not less than 27 permanent, full-time equivalent jobs shall be retained and created in the commercial portion of the Facility within 12 months of the completion thereof through the Term of the Agreement.

(b) The Developer and the City agree that the Facility shall be used for the residential and commercial purposes more fully described in paragraph D of the Recitals through the Term of the Agreement, and that any change will require DPD's prior written consent.

(c) The Developer hereby covenants and agrees to maintain not less than seventy-five percent (75%) of the residential units comprising the residential portion of the Facility occupied with Low Income Families (the "Minimum Residential Occupancy Level") from the date of the Certificate and during the remainder of the Term of the Agreement. In the event that the occupancy level of the residential portion shall fall below the Minimum Residential Occupancy Level, the Developer shall have one-year from the date such vacancy level occurs to restore the Minimum Residential Occupancy Level; at the end of such one-year period, the City shall be entitled to suspend disbursement of City Funds to the Developer; provided, however, that such disbursements shall be payable to the Developer from and after such time as the Minimum Residential Occupancy Level shall be attained by the Developer. The Developer shall notify the City in writing of the date on which the Minimum Residential Occupancy Level fails to be met, and such one-year period shall begin to run on a date agreed to by DPD.

8.07 Employment Opportunity. The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 10 hereof.

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

8.09 Prevailing Wage. The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as

ascertained by the Illinois Department of Labor (the "Department"), to all Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this Section 8.09.

The Developer shall submit reports to the Commissioner evidencing compliance with this Section 8.09 after the following periods: (1) upon expenditure of 25 percent of the total costs of the Project; (2) upon expenditure of 50 percent of the total costs of the Project; (3) upon expenditure of 70 percent of the total costs of the Project, with a plan to address any shortfalls; and (4) upon completion of the Project.

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

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

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

8.13 Financial Statements. The Developer shall obtain and provide to DPD Financial Statements for the Developer's fiscal year ended 1996 and for each calendar year thereafter for the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DPD may request.

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

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

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

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

at the time and in the manner provided in this Section 8.15);
or

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

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

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

8.18 Recording and Filing. The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed 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.

8.19 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, or appear to create a lien upon the Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to the Developer, the Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. The Developer shall have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. The Developer's right to challenge real estate taxes applicable to the Property is limited as provided for in Section 8.19(c) below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending 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 DPD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DPD's sole option,

(i) the Developer shall demonstrate to DPD'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 DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property 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 DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DPD by 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 that is necessary to support the debt service indicated ("Minimum Assessed Value") is shown on Exhibit K attached hereto and incorporated herein by reference for the years noted on Exhibit K; (B) Exhibit K sets forth the assessed values, estimated multiplier, equalized assessed values, estimated tax rate and taxes shown thereon; and (C) the real estate taxes anticipated to be generated and derived from the respective portions of the Property and the Project for the years shown are fairly and accurately indicated in Exhibit K. Notwithstanding the foregoing, the City hereby understands and agrees that the Developer may obtain Class 9 status for the Property.

(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 that will cause real estate taxes for the Property to be less than the amount shown on Exhibit K.

(iii) No Reduction in Real Estate Taxes. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value as shown in Exhibit K 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 Project up to (but not above) the Minimum Assessed Value as shown in Exhibit K.

(v) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.19 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 8.19 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 8.19.

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

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Property.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable.

8.20 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 and that City Funds are available as of the date hereof to perform such obligations in accordance with the terms of this Agreement, and shall remain available to fund the City's obligations hereunder as same become due.

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 Purchasing Agent of the City.

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

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.

The Developer shall submit reports to the Commissioner evidencing compliance with this Section 10.02 after the following periods: (1) upon expenditure of 25 percent of the total costs of the Project; (2) upon expenditure of 50 percent of the total costs of the Project; (3) upon expenditure of 70 percent of the total costs of the Project, with a plan to address any shortfalls; and (4) upon completion of the Project. Such reports shall include weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) which clearly identify 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 Purchasing Agent, the Commissioner of DPD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. The Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.

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

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

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.

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 The Developer's 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 the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "MBE/WBE" Program"), Section 2-92-420 et seq., Municipal Code of Chicago, 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 construction of the Project, at least the following percentages of the total aggregate construction costs (as set forth in the construction budget shown on Exhibit H-1, hereto provided, that if such construction budget shall increase, the following percentages shall be applied to the increased budget), shall be expended for contract participation by MBEs or WBEs:

- i. At least 25 percent by MBEs.
- ii. At least 5 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" as such terms are defined in Section 2-92-420, Municipal Code of Chicago.

c. Consistent with Section 2-92-440, 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 a 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 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. The Developer or the General Contractor may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in its activities and operations other than the Project.

d. The Developer shall submit reports to the Commissioner evidencing compliance with this Section 10.03 after the following periods: (1) upon expenditure of 25 percent of the total costs of the Project; (2) upon expenditure of 50 percent of the total costs of the Project; (3) upon expenditure of 70 percent of the total costs of the Project, with a plan to address any shortfall; and (4) upon completion of the Project. 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 Commercial Portion, 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 DPD in determining the Developer's compliance with this MBE/WBE commitment. DPD shall have access to the Developer's books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with Section 14 of this Agreement, on five (5) 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 Section 2-92-540, Municipal Code of Chicago.

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 Section 2-92-450, Municipal Code of Chicago.

g. Prior to the commencement of the Project, the Developer, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with regard to the Developer's compliance with its obligations under this Section 10.03. During this meeting, the Developer shall demonstrate to DPD its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by DPD. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the monitoring staff of DPD. Failure to submit such documentation on a timely basis, or a determination by DPD, upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder. 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, 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 adjacent to the Property in which the Developer, or any person directly or indirectly controlling, controlled by or under common control with the Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by the Developer), or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the Developer or any of its Affiliates under any Environmental Laws relating to the Property.

SECTION 12. INSURANCE

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

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

(i) Workers' Compensation and Employers Liability Insurance

Workers' Compensation and Employers Liability Insurance, as prescribed by applicable law, covering all employees who are to provide a service under or in connection with this Agreement, and Employers Liability coverage, with limits of not less than \$100,000.00 for each accident or illness.

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

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000.00 per occurrence, for bodily injury, personal injury and property damage liability. Coverages shall include the following: all premises and operations, products/ completed operations, independent contractors, separation of insureds, defense and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Agreement.

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

(i) Workers' Compensation and Employers Liability Insurance

Workers' Compensation and Employers Liability Insurance, as prescribed by applicable law, covering all employees who are to provide a service under or in connection with this Agreement, and Employers Liability coverage, with limits of not less than \$500,000.00 for each accident or illness.

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

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000.00 per occurrence, for bodily injury, personal injury and property damage liability. Coverages shall include the following: all premises and operations, products/completed operations (for a minimum of two years following completion of the Project), explosion, collapse, underground, independent contractors, separation of insureds, defense and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Agreement.

(iii) Railroad Protective Liability Insurance

When, in connection with this Agreement, any work is to be done adjacent to or on property owned by a railroad or public transit entity, the Developer shall provide and maintain, or cause to be provided and maintained, with respect to the operations that the Developer, the General Contractor or any subcontractor shall perform, Railroad Protective Liability Insurance in the name of such railroad or public transit entity. The policy shall have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(iv) Automobile Liability Insurance

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed under this Agreement, the Developer shall provide and maintain, or cause to be provided and maintained, Automobile Liability Insurance with

limits of not less than \$2,000,000.00 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(v) Builders Risk Insurance

When the Developer, the General Contractor or any subcontractor undertakes any construction, including improvements, betterments, and/or repairs, the Developer, the General Contractor or any such subcontractor shall provide All Risk Builder's Risk Insurance to cover the materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facilities. Coverage extensions shall include, but are not limited to the following: collapse, boiler and machinery, if applicable. The City of Chicago shall be named as an additional insured and loss payee.

(vi) Professional Liability

When any architects, engineers, construction managers or consultants of any kind perform work in connection with this Agreement, Professional Liability insurance covering acts, errors or omissions shall be maintained with limits of not less than \$1,000,000.00. Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Project. A claims-made policy that is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced or used in connection with this Agreement, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits

sufficient to pay for the re-creation and reconstruction of such items.

(viii) Contractors' Pollution Liability Insurance

When any environmental remediation work is undertaken by the Developer, the General Contractor or any subcontractor in connection with this Agreement, Contractors' Pollution Liability Insurance shall be procured with limits of not less than \$1,000,000.00 covering all construction and related work undertaken in connection with this Agreement. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis. The Developer, the General Contractor and any subcontractor shall comply with any additional insurance requirements that are stipulated by the Interstate Commerce Commission's Regulations, Title 49 of the Code of Federal Regulations, Department of Transportation; Title 40 of the Code of Federal Regulations, Protection of the Environment and any other federal, state or local regulations concerning the removal and transportation of Hazardous Materials.

(c) Other Provisions

(i) Delivery of certificates to City: At least five (5) business days prior to the Closing Date (unless otherwise specified) the Developer shall furnish the following certificates to DPD at City Hall, Room 1000, 121 North LaSalle Street, Chicago, Illinois 60602:

--Original certificates of insurance evidencing the required coverage, showing the City as a certificate holder and, if applicable, loss payee or additional insured, to be in force on the date of execution of this Agreement, and renewal certificates of insurance or other evidence of renewal, if the coverages have an expiration or renewal date occurring during the Term of the Agreement. Each certificate of insurance shall provide that the City is to be given sixty (60)

days prior written notice in the event coverage is substantially changed, cancelled or not renewed; and

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

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

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

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

(iv) The Developer agrees, and shall cause its insurers and the insurers of its General Contractor and each

subcontractor engaged after the date hereof in connection with the Project to agree, that all such insurers shall waive their rights of subrogation against the City.

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

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

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

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

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

SECTION 13. INDEMNIFICATION

The Developer agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities,

claims, suits, actions, causes of action and expenses (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with (i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement, or (ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the 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 the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or its agents, employees, contractors or persons acting under the control or at the request of the Developer or (iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto.

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

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

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

SECTION 15. DEFAULT AND REMEDIES

15.01 Events of Default. The occurrence of any one or more of the following events, subject to the provisions of Section

15.03, shall constitute an "Event of Default" by the Developer hereunder:

(a) the failure of 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; or

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

For purposes of Sections 15.01(i) and 15.01(j) hereof, a person with a material interest in the Developer shall be one having an interest of at least thirty-three percent (33%) in the Developer.

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; provided, however, that such disbursement of City Funds shall be payable to

the Developer from and after such time as the Event of Default may be cured pursuant to Section 15.03. 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 shall have failed to perform such monetary covenant within twenty (20) 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 shall have failed to cure such default within forty-five (45) 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 forty-five (45) 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 forty-five (45) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit G hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." Any 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 which is not a Permitted Mortgage is referred to herein as a "New Mortgage." The Existing Mortgage(s) and New Mortgage(s) are referred to herein collectively as the "Mortgage(s)," and the holder of any such Mortgage is referred to herein as a "Mortgagee." 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 mortgage or deed of trust (other than 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 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 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 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 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 agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party shall have no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such Mortgagee or other party succeeding to the Developer's interest in the Property does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights or 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) New Mortgages. Prior to the issuance by the City to the Developer of a Certificate pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DPD.

SECTION 17. NOTICE

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

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

With Copies To: City of Chicago
 Department of Law
 Finance and Economic Development Division
 121 North LaSalle Street, Room 511
 Chicago, IL 60602

If to the Developer: Howard Theater Limited Partnership
 1871 N. Clybourn Avenue, Suite 208
 Chicago, Illinois 60614
 Attn: Jay Johnson

With Copies To: Gregory Dahlgren
 Rudnick & Wolfe
 203 North LaSalle Street
 Suite 1800
 Chicago, Illinois 60601

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 without the prior written consent of the City.

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.

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 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 Assignment. Prior to the issuance by the City to the Developer of a Certificate, the Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City, provided, that the

parties agree that the Developer may sell the Howard Square Property pursuant to the Real Estate Sale Contract. Notwithstanding the issuance of such Certificates, any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Sections 8.19 and 8.20 hereof, for the Term of the Agreement, provided, however, that the City shall not be obligated to pay City Funds to any successor in interest. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.15 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).

18.16 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.

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

18.18 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 reimbursement obligations of the City set forth herein.

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

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

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

ATTEST:

HOWARD THEATER LIMITED PARTNERSHIP,
an Illinois limited partnership

By: _____



By: Howard Theater, Inc.,
an Illinois Corporation

Its: _____

Its: General Partner

By:  _____
Its: Resident _____

CITY OF CHICAGO

By:  _____
_____, 
Commissioner, Department
of Planning and Development

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

THE GENERAL
PARTNER OF
HOWARD THEATER
LIMITED PARTNERSHIP

I, SUSAN G. ZERKLE, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that and JAY JOHNSON, personally known to me to be the and PRESIDENT of HOWARD THEATER, INC., an Illinois limited partnership (the "Developer"), is and personally known to me to be the same person whose name are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered said instrument, pursuant to the authority given to them by the said corporation and partnership, as ^{his} their free and voluntary act and as the free and voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 2nd day of December, 1998.

Susan G. Zerkle
Notary Public

My Commission Expires 8/28/01

(SEAL)

.....
"OFFICIAL SEAL"
SUSAN G. ZERKLE
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires Aug. 28, 2001
.....

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Patricia M. Ryan, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Christopher Hill, personally known to me to be the Commissioner of the Department of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument pursuant to the authority given to him by the City, as his free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 2th day of December, 1998.

Patricia M. Ryan
Notary Public

My Commission Expires 5/6/2002

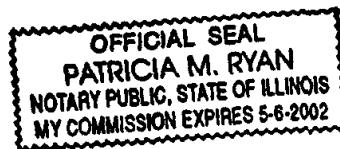


EXHIBIT A

Legal Description

(Howard/Paulina Amended and Restated Redevelopment Project Area No. 1)

That part of the North 1/2 of the Southeast 1/4 and the South 1/2 of the Northeast 1/4 of Section 30, Township 41 North, Range 14 East of the Third Principal Meridian, bounded and described as follows:

Beginning at the intersection of the Easterly right-of-way line of the Chicago and Northwestern Railroad with the North line of the Southeast 1/4 of said Section 30, said line also being the centerline of Howard Street; thence East along said centerline of Howard Street to the point of intersection with the Westerly right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad; thence Northwesterly along said Westerly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad to the point of intersection with the North line of Howard Street; thence East along said North right-of-way line of Howard Street to the point of intersection with the East line extended North of the 16 foot North-South public alley East of Ashland Avenue; thence South along said East line extended and the east line of the 16 foot public alley, said line being parallel to the right-of-way line of Ashland Avenue, to the point of intersection with the Southerly right-of-way line of Rogers Avenue; thence Southwesterly along said right-of-way line of Rogers Avenue to the point of intersection with the Westerly right-of-way line of Clark Street; thence Northerly along said Westerly right of way line to the point of intersection with the North right-of-way line of Birchwood Avenue; thence West along said right-of-way line to the point of intersection with the Easterly right-of-way line of the Chicago and Northwestern Railroad; thence Northerly along said Easterly right-of-way line of the Chicago and Northwestern Railroad to the point of beginning, all in Cook County, Illinois

Exhibit B

LEGAL DESCRIPTION

PARCEL 1

Those parts of Lots 1 through 10, both inclusive in Block 1 in FERGUSON'S BIRCHWOOD ADDITION TO ROGERS PARK, as per plat thereof recorded April 6, 1911 as Document Number 4735388, described as follows; Beginning at the Northeast corner of Lot 10 aforesaid; thence South along the East line of said Lot 10, a distance of 90.00 feet; thence West along a line parallel with and 90.00 feet South of the North line of said Lots 1 through 10, to a point in the Southwesterly line of Lot 2; thence Northwesterly along said Southwesterly line, to the Southwest corner of Lot 1; thence North on the West line of said Lot 1 to the Northwest corner of said lot; thence East along the North line of said Lots 1 through 10, said line being also the South line of West Howard Street, to the Northeast corner of Lot 10 aforesaid and the point of beginning, in Cook County, Illinois.

PARCEL 2

Those parts of Lots 2 through 10, both inclusive, in Block 1 in FERGUSON'S BIRCHWOOD ADDITION TO ROGERS PARK, As per plat thereof recorded April 6, 1911 as Document Number 4735388, described as follows: Beginning at a point in the East line of said Lot 10, 90.00 feet South of the Northeast corner of said lot; thence South on said East line of Lot 10 to the Southeasterly corner of said lot; thence Northwesterly along the Southwesterly line of Lots 6, 7, 8, 9 and 10, to the Southwesterly corner of said Lot 6; thence North along the West line of Lot 6 to the Southeast corner of Lot 5, thence West along the South line of Lot 3, 4 and 5 to the Sw.ly line of said Lot 3; thence Nw.ly along the Sw.ly line of Lots 2 and 3, to a point on a line 90.00 feet South of and parallel with the North line of said Lots 1 to 10; thence East along said parallel line to the point of beginning, in Cook County, Ill.

The aforesaid Parcels 1 and 2 of Lots 1 to 10, both inclusive, in Block 1 in FERGUSON'S BIRCHWOOD ADDITION TO ROGERS PARK, a subdivision of the Southeast fractional quarter of Section 30, Township 41 North, Range 14 East of the Third Principal Meridian, Northeasterly of the Northwestern elevated Railroad right of way and the North Indian Boundary Line, and part of the Southwest fractional quarter of Section 29, Township 41 North, Range 14 East of the Third Principal Meridian, lying North of Indian Boundary Line, in Cook County, Illinois.

Also known as PIN 11-30-404-006-000 and commonly known as No. 1615-43 West Howard Street, Chicago, Illinois.

EXHIBIT C

TIF FUNDED IMPROVEMENTS*

| | |
|--|--------------|
| ACQUISITION (Residential only) | \$ 528,913** |
| REHABILITATION OF THEATER STRUCTURE (Residential only) | \$1,955,980 |
| ARCHITECTS AND CONSULTANTS (Residential only) | \$ 98,000 |

(*) In no event will the amount of City Funds exceed the lesser of \$878,200 or 23.17% of the actual total project costs. Subject to the total limit described in the preceding sentence and to the right of the City to approve the TIF-Funded Improvements as described in this Agreement, to the extent that the actual amount incurred for any of the costs listed above is less than the amount listed in this Exhibit C, any costs for any item listed above which in the aggregate exceed the amount listed above may also be considered as TIF-Funded Improvements even though such costs were, under the Project Budget, to be paid from sources other than City Funds. The City reserves the right to allocate dollar amounts between line items without amendment of this Agreement.

(**) (\$811,000 Acquisition / 46,000 Sq.Ft.) * 30,000 Sq. Ft. of Residential = \$528,913

EXHIBIT D

**City of Chicago Howard/Paulina Redevelopment Project Area
Tax Increment Finance Program Redevelopment Project and Plan**

[Intentionally Omitted - Not To Be Recorded]

-

EXHIBIT E

Construction Contract

[Intentionally Omitted - Not To Be Recorded]

EXHIBIT F

Schedule of TIF Payments

| TAX YEAR ¹ | ESTIMATED PAYMENT SCHEDULE |
|------------------------|----------------------------|
| 1996 | \$32,312.64 |
| 1997 | \$19,565.87 |
| 1998 | \$33,198.25 |
| 1999 | \$49,681.46 |
| 2000 | \$56,625.69 |
| 2001 | \$56,625.69 |
| 2002 | \$56,625.69 |
| 2003 | \$64,219.82 |
| 2004 | \$64,219.82 |
| 2005 | \$64,219.82 |
| 2006 | \$72,524.96 |
| 2007 | \$72,524.96 |
| 2008 | \$72,524.96 |
| 2009 | \$81,607.07 |
| 2010 | \$81,723.30 |
| Total Proceeds: | \$878,200 |

a exhibit f

¹ Taxes for the listed tax year are actually payable and collected the subsequent year.

EXHIBIT G

Permitted Liens

1. General real estate taxes for the year 1998 and subsequent years, not yet due and payable
 2. Rights of tenants under leases delivered to the City.
 3. Permanent order entered October 23, 1980 in Case No. 74CH51298 not to use theater portion of the subject building until further notice of court.*
 4. Order entered July 2, 1976 in Case No. 75CH3054 that the defendants are restrained from using the land as a theater until further order of the court, recorded July 8, 1976 as Document No. 23551351.*
 5. Order entered November 2, 1998 in Case No. 98 M1 403753 that the defendants shall leave the subject premises vacant until the further order of the court.*
 6. Encroachments disclosed on survey dated October 20, 1998 prepared by Land Title Survey.
- * The violations giving rise to this order are to be cured or otherwise resolved by the redevelopment work.

| EXHIBIT H | | | |
|---|--|--|------------------|
| PROJECT BUDGET | | | |
| | | | |
| | | | |
| Acquisition Costs | | | 811,000 |
| Rehab Costs | | | |
| Construction | | | 2,091,480 |
| Contingency (10%) | | | 209,149 |
| Developers Fee | | | 650,537 |
| Architects and Consultants | | | 98,000 |
| Inspecting Architect & Environmental | | | 6,000 |
| Permits | | | 20,000 |
| Closing Costs, Appraisal | | | 39,629 |
| Legal | | | 80,000 |
| Bond Costs | | | |
| Transaction Costs | | | 243,500 |
| 2% Fee | | | 56,000 |
| Reserves | | | 0 |
| Construction Interest | | | 157,500 |
| Taxes (Construction & Escrow) | | | 65,500 |
| Lease-Up & Operating Reserves | | | 80,000 |
| Relocation | | | 0 |
| Leasing Commissions | | | 30,056 |
| Insurance (Construction & Escrow) | | | 8,708 |
| | | | |
| TOTAL: | | | 4,647,059 |

| EXHIBIT H1 | | | | |
|-----------------------------------|--|--|--|------------------|
| CONSTRUCTION BUDGET | | | | |
| | | | | |
| | | | | |
| Rehab Costs | | | | |
| Construction | | | | 2,091,480 |
| Contingency (10%) | | | | 209,149 |
| Architects and Consultants | | | | 98,000 |
| | | | | |
| TOTAL: | | | | 2,398,629 |

Exhibit I

Approved Prior Expenditures

| Line Item | Name of Firm | Contract Price | Paid | Amount of Payment | Balance to Become Due |
|----------------------------|-------------------|----------------|------------|-------------------|-----------------------|
| Architects and Consultants | CAPA | \$ 90,000 | \$ 43,000 | \$ - | \$ 47,000 |
| Bond Transaction Cost | IDHA | \$ 196,500 | \$ 27,500 | \$ - | \$ 169,000 |
| Closing Cost and Appraisal | LaSalle | \$ 39,629 | \$ 10,100 | \$ - | \$ 29,529 |
| Acquisition * | Howard Theater LP | \$ 811,000 | \$ 811,000 | \$ - | \$ - |
| Total | | | \$ 891,600 | | |

* net of proceeds received from Howard Square LLC parcel.

EXHIBIT J

Legal Opinion of Rudnick & Wolfe

[Intentionally Omitted - Not To Be Recorded]