

Contract Summary Sheet

Contract (PO) Number: 2624

Specification Number: 13798

Name of Contractor: ILLINOIS DEPT OF COMMERCE &

City Department: PLANNING & DEVELOPMENT

Title of Contract: Grant to State to Funds Remediation Costs at Site Within the Read-Dunning TIF

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

\$509,652 00

Brief Description of Work: Grant to State to Funds Remediation Costs at Site Within the Read-Dunning TIF

Procurement Services Contact Person: BARBARA SUTTON

Vendor Number: 1002100

Submission Date:
JUN 04 2004

CHICAGO READ-DUNNING REDEVELOPMENT AGREEMENT

dated as of December 14, 1994

by and among

the

State of Illinois, having the
Illinois Department of Commerce
and Community Affairs as its agent
and acting on behalf of certain
other state agencies

and the

City of Chicago, Illinois

and

Chicago Read Joint Venture L.P.

July 11, 1994

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LIST OF EXHIBITS

- Exhibit A - Legal Description of Property
- Exhibit A-1 - Legal Description of New Horizons Property
- Exhibit A-2 - Legal Description of Unoccupied Residential Property
- Exhibit A-3 - Legal Description of Occupied Residential Property
- Exhibit A-4 - Legal Description of Phase 1 Property
- Exhibit A-5 - Legal Description of Phase 2 Property
- Exhibit A-6 - Legal Description of Eli's Property
- Exhibit A-7 - Legal Description of Ward Yard
- Exhibit A-8 - Legal Description of Phase 3 Property
- Exhibit A-9 - Legal Description of C-1 Memorial Park Property
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- Exhibit A-11 - Legal Description of Property Encumbered by Lease Between State and Wright Jr. College
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- Exhibit A-15 - Legal Description and Depiction of Property to be Reserved for Street(s)
- Exhibit B - Site Plan
- Exhibit C - Intergovernmental Agreement
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- Exhibit E - Legal Description of Redevelopment Area
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- Exhibit H - Permitted State Encumbrances
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- Exhibit J - Eli's Purchase Contract
- Exhibit K - New Horizons Agreement
- Exhibit L - Residential Developer's Purchase Contract
- Exhibit M-1 - Developer's Environmental Remediation Tasks
- Exhibit M-2 - State's Environmental Remediation Tasks
- Exhibit N - Schedule of Public Improvements
- Exhibit O - Spur Road Relocation Drawing
- Exhibit P - Project Budget
- Exhibit Q - Protocols for Removal of Graves
- Exhibit R - Planned Development
- Exhibit S - Copy of State P.A. 84-460
- Exhibit T - Hazardous Material Disclosure
- Exhibit U - Conditional Provisions
- Exhibit V - Minimum Assessed Value
- Exhibit W - (Intentionally Omitted)
- Exhibit X - (Intentionally Omitted)
- Exhibit Y - Schedule of Anticipated Sources and Uses of City Funds and Developer's Funds

CHICAGO READ-DUNNING REDEVELOPMENT AGREEMENT

This Redevelopment Agreement (this "Agreement") is made as of this 14 day of December, 1994 by and among (i) the State of Illinois, having the Illinois Department of Commerce and Community Affairs ("DCCA") as its agent and acting on behalf of the Illinois Department of Central Management Services ("CMS"), the Illinois Department of Mental Health and Developmental Disabilities ("DMHDD"), the Illinois Historic Preservation Agency ("HPA"), the Illinois Capital Development Board ("CDB"), and all State executive agencies (referred to herein both collectively and individually as the "State"), (ii) the City of Chicago, Illinois, an Illinois municipal corporation (the "City"), by and through its Department of Planning and Development ("DPD"), and (iii) Chicago Read Joint Venture L.P. (the "Developer"), an Illinois limited partnership.

ARTICLE I. RECITALS

A. The State, through certain of the State executive agencies referred to above, currently owns all of the real property legally described on Exhibit A attached hereto and the personal property and fixtures currently located thereon (the "Property"). The Property is made up of four parcels which are referred to herein as the "New Horizons Property", the "Residential Property", the "Industrial Property", and the "Phase 3 Property". The New Horizons Property is legally described on Exhibit A-1. The

July 11, 1994

Residential Property is made up of two parcels which are referred to herein as the "Unoccupied Residential Property" (legally described on Exhibit A-2 attached hereto), which is that portion of the Residential Property which is either vacant or improved with structures which have already been vacated by the State, and the "Occupied Residential Property" (legally described on Exhibit A-3 attached hereto), which is that portion of the Residential Property which currently contains buildings occupied or utilized by DMHDD. The Industrial Property is made up of two parcels which are referred to herein as the "Phase 1 Property" and the "Phase 2 Property". The Phase 1 Property and the Phase 2 Property are legally described on Exhibits A-4 and A-5, respectively. The Phase 1 Property includes that portion of the Industrial Property (the "Eli's Property") which will be conveyed to Eli's Chicago's Finest, Inc. ("Eli's") and which is legally described on Exhibit A-6, a portion of the Industrial Property which is currently being leased by the State to New Horizons Center for the Developmentally Disabled, Inc. ("New Horizons"), and the future site of the Ward Yard (as defined in Recital F) which is legally described on Exhibit A-7. The Phase 3 Property is legally described on Exhibit A-8 attached hereto. The Phase 2 Property and the Phase 3 Property currently include buildings occupied or utilized by DMHDD. The Property, together with the "Memorial Park Property" (which is made up of the "C-1 Memorial Park Property" legally described on Exhibit A-9 and the "C-2 Memorial Park Property" legally described on Exhibit A-10), are depicted on the site plan ("Site Plan") attached hereto as Exhibit B.

B. The State has determined that it is in its best interest, and in the best interests of the inhabitants of the State, to cooperate and work together with the City and the Developer to insure the development of the Residential Property and the Industrial Property for the various reasons described in Paragraph C of these recitals. In furtherance of such determination and in consideration of the undertaking by the City to pay for a part or all of the costs of constructing and equipping the State's West Campus Building as hereinafter defined in Article IX, the State executive agencies owning the Property have declared or will declare such Property as "surplus property" pursuant to the State Property Control Act, 30 ILCS 605/1 et seq. (1992) (the "State Property Act"), in accordance with that certain Intergovernmental Cooperation Agreement (the "Intergovernmental Agreement") dated December 14 1994, among DCCA, CMS, DMHDD, HPA and CDB attached hereto as Exhibit C. Following such declaration, the State executive agencies owning the Property have conveyed or will convey the Property to CMS pursuant to the State Property Act. Thereafter, CMS has conveyed or will convey such Property to DCCA, and DCCA will convey such Property as detailed herein pursuant to the Large Business Development Act, 30 ILCS 750/10-1 et seq. (1992) (the "Large Business Development Act"), as amended, the director of DCCA having found that other means of financing and developing the Property are not reasonably available and that such action by DCCA is consistent with the purposes and policies of the Large Business Development Act. With respect to certain existing buildings on the Phase 2 Property, the Phase 3 Property and the Occupied Residential

Property, the declaration of surplus property by the State agency owning such real property may be subject to a temporary right on behalf of such agency to continue to occupy or utilize such existing buildings pending the construction of State's West Campus Building, all as more specifically detailed in the Intergovernmental Agreement and contemplated in Article IX hereof.

C. The State has the authority to promote the health, safety and welfare of the State and its inhabitants, to encourage private development in order to create employment opportunities and enhance the local tax base and to enter into contractual agreements with third parties for the purpose of achieving these goals.

D. The City, as a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State, has the authority to promote the health, safety and welfare of the City and its inhabitants, to prevent the spread of blight, to encourage private development in order to create employment opportunities and enhance the local tax base and to enter into contractual agreements with third parties for the purpose of achieving these goals.

E. The Developer desires to redevelop the Industrial Property as a light industrial park and, as provided in Article VII and limited thereby, to convey the Residential Property to the Residential Developer (as defined in Section 7.01) for redevelopment for multifamily residential use. The Residential Property together with all private and public improvements to be

constructed on the Residential Property is referred to herein as the "Residential Project." The Industrial Project (as defined in Recital F) and the Residential Project and any related public and private improvements are sometimes collectively referred to herein as the "Project."

F. The City plans to use \$6,156,352.00 of the proceeds of its General Obligation Fund Bonds, Project Series B of 1992 ("Bonds") issued pursuant to an ordinance adopted by the City Council of the City on July 7, 1992 ("Bond Ordinance"), and up to the additional sum of \$300,000.00 from Incremental Taxes (as defined in Section 12.06) to total up to \$6,456,352.00 ("City Funds"), to pay for the consideration to be paid to New Horizons in the nature of acquisition and relocation costs in the amount of \$386,351.78 pursuant to the New Horizons Agreement in order to gain control and ownership of the portion of the Phase 1 Property (other than the New Horizons Property) covered by the lease between New Horizons and the State, all as more particularly contemplated and dealt with in Article VI, below, to pay for a part or all of the cost of environmental remediation of the Industrial Property as provided in Article VIII hereof, to pay for the cost of the construction and installation of certain public improvements relating to the Industrial Property, and the demolition of existing structures and improvements on the Industrial Property (being collectively the "Public Improvements" as more fully described on Exhibit D attached hereto) as provided in Article X, and to pay for a part or all of the cost of the State's West Campus Building as

provided in Article IX, below. All activities and improvements referred to above and any related activities or improvements, the payment of which is an Eligible Cost (as defined in Section 12.08), shall be collectively referred to as the "T.I.F. Eligible Improvements", and all such activities and improvements referred to in this Recital F even though not paid for from City Funds as Eligible Costs shall be collectively referred to as and shall constitute the "Industrial Project". Additionally, the City plans to construct a public facility commonly known as a ward yard ("Ward Yard") on a portion of the Phase 1 Property legally described on Exhibit A-7 (the "Ward Yard Site") at a cost of approximately \$843,648.00, which will be paid for out of the proceeds of the Bonds, as provided in Article XI; provided that any costs incurred by the City for construction of the Ward Yard in excess of said amount shall be paid by the City from funds other than the City Funds.

G. On September 14, 1994, the City Council passed "An Ordinance of the City of Chicago authorizing the Chicago Read-Dunning Redevelopment Agreement" ("Redevelopment Agreement Ordinance") authorizing the execution and delivery of this Agreement among the City, the State and the Developer.

H. The City Council, in order to induce redevelopment pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-7.4-1 (1992), as amended ("Tax Increment Act"), adopted the following ordinances on January 11, 1991: (1) "An Ordinance of the

City of Chicago, Illinois, approving a Tax Increment Redevelopment Plan and Redevelopment Project for the Chicago Read-Dunning Redevelopment Project Area," (2) "An Ordinance of the City of Chicago, Illinois, designating the Chicago Read-Dunning Redevelopment Project Area of said City a Redevelopment Project Area pursuant to the Tax Increment Allocation Redevelopment Act," and (3) "An Ordinance of the City of Chicago, Illinois, adopting Tax Increment Allocation Financing for the Chicago Read-Dunning Redevelopment Project Area." (The foregoing ordinances are collectively referred to herein as the "T.I.F. Ordinances"). The Chicago Read-Dunning redevelopment project area (the "Redevelopment Area") is legally described on Exhibit E attached hereto. The City may, in its discretion, issue tax increment allocation bonds ("T.I.F. Bonds") at some later date in order to redeem or defease that portion of the Bonds used to pay for Eligible Costs. All T.I.F. Eligible Improvements which will be financed from proceeds of the Bonds shall be "Redevelopment Project Costs" as defined in the Tax Increment Act.

I. The Project will be developed in accordance with the Chicago Read-Dunning Tax Increment Financing Redevelopment Project and Plan ("Redevelopment Plan") attached hereto as Exhibit F.

J. The development of the Project would not reasonably be anticipated without the financing contemplated by this Agreement. The City Funds are necessary to remediate the Industrial Property, and construct the State's West Campus Building and the Public

Improvements to the extent provided in this Agreement in order to permit the redevelopment of the Property.

FOR AND IN CONSIDERATION of the mutual covenants described above and the agreements contained below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE II. INCORPORATION OF RECITALS AND EXHIBITS

The recitations set forth in the foregoing recitals and the exhibits attached hereto ("Exhibits") are material to this Agreement and are hereby incorporated into and made a part of this Agreement and this Agreement shall be construed in accordance therewith.

ARTICLE III. STATE CONVEYANCES TO THE CITY

3.01 Initial Transfers to CMS and DCCA. Prior to the time the State is required to convey each portion of the Property in accordance with this Agreement, the State agency owning such Property shall declare it "surplus property" pursuant to the requirements of the State Property Act and in accordance with the terms of the Intergovernmental Agreement. Following such declaration, the applicable State agency shall convey such portion

to CMS pursuant to the State Property Act. Thereafter, CMS shall convey it to DCCA, and DCCA shall convey it as detailed herein pursuant to the Large Business Development Act. Unless expressly provided otherwise hereinafter in this Agreement, any provisions hereinafter contained requiring conveyance of any portion of the Property by the State shall be deemed to entail the methodology set forth in this Section 3.01.

3.02 Initial Conveyances to the City. Within forty-five (45) days of the execution and delivery of this Agreement, the State shall convey to the City fee simple title to the Phase 1 Property (which includes the Eli's Property and the future site of the Ward Yard), the Unoccupied Residential Property, and the New Horizons Property. It is acknowledged and understood by the parties that the portion of the Phase 1 Property legally described on Exhibit A-11 attached hereto (the "Wright College Site") is encumbered by that certain lease entered into by the State, as lessor, and the Board of Trustees of Community College District No. 508, as lessee, and executed by said lessee on November 22, 1993 (the "Wright College Lease"), which limits the use thereof to the parking of vehicles affiliated with Wright College activities for a term of two years ending November 21, 1995 (subject to the agreement of said lessee to use its best efforts to vacate such premises prior to the expiration of the two year term). The said lessor's interest under the Wright College Lease shall be assigned by the State to the City in connection with the conveyance by the State of the Phase 1 Property. Consistent with the intended development of

the Wright College Site as contemplated in this Agreement and with the understanding of said lessee of such intention as provided in Section 12 of the Wright College Lease, the City agrees that it will not extend the term of the Wright College Lease in a way that would adversely affect the intended development of the Wright College Site without the prior written consent of the Developer. If said lessee impermissibly fails or refuses to vacate the Wright College Site at the time and in the manner provided for under the Wright College Lease, the City agrees that the lessor's rights to evict Wright College under the Wright College Lease shall be assigned to the Developer in light of the Developer's obligations and rights under this Agreement. In furtherance thereof, the Developer shall then have the right to take such action as necessary and appropriate to gain possession of the Wright College Site so that development thereof may proceed under this Agreement.

3.03 Future Conveyances to the City. Upon the satisfactory completion of construction of the State's West Campus Building, as evidenced by the delivery by the State of the State Certificate of Completion in accordance with Section 9.06, and the vacation of the improvements on the Phase 2 Property and the Occupied Residential Property, all as more fully described in Article IX, the State shall convey to the City fee simple title to the Phase 2 Property (with the exception of that portion of the Relocation Area to which Graves have been relocated, as described in Article XIII) and the Occupied Residential Property. In the event that the State vacates the buildings located on the Phase 2 Property and/or the Occupied

Residential Property prior to the completion of the State's West Campus Building, the State agrees to convey to the City fee simple title to the Phase 2 Property and/or the Occupied Residential Property within seven (7) days of such vacation. The State agrees to notify the City and the Developer of its intent to vacate any such improvements that would lead to such a conveyance requirement at least thirty (30) days in advance of the intended date of vacation. The State shall deposit in the proper escrow established for such purpose pursuant to Section 12.03 by not later than the date that it issues its State Certificate of Completion pursuant to Section 9.06, unless sooner deposited because of the vacation of such improvements prior to completion of the State's West Campus Building, all necessary conveyance documents and escrow deposits for such conveyance.

The State may convey to the City fee simple title to the Phase 3 Property as more fully described in Article XIV.

3.04 Grant of Easements for Utilities and Access. Upon the execution of this Agreement, the State shall (a) grant to the City perpetual easements for utilities substantially in the form attached hereto as Exhibit G-1 over those portions of the Property legally described on Exhibit G-1 and (b) grant to the City and the Developer a perpetual easement for access to the property legally described on Exhibit B of Exhibit G-2, and to the Spur Road (as depicted on the Site Plan) as currently configured or as it may be relocated pursuant to the provisions of this Agreement, over the

property commonly known as Oak Park Avenue, substantially in the form attached hereto as Exhibit G-2; provided, however, that the instrument granting any such utility easements shall provide for the termination of any such easements for the reasons required by 30 ILCS 605/7.2B for so long as the property that is the subject matter of any such easements is owned by the State. The State shall also grant to the City, its successors and assigns, easements over property yet to be precisely defined for the purpose of utilities and access.

3.05 Reservation of Easements by the State. The State may reserve temporary or permanent easements for utilities (which may include easement areas to which any such utilities may be intended to be relocated) or access over those portions of the Property legally described on Exhibit A-12 attached hereto upon the conveyance of any such portion of the Property to the City.

3.06 Form of Deeds. The State shall convey to the City fee simple title by recordable quitclaim deed, subject only to those title exceptions set forth on Exhibit H attached hereto ("Permitted State Encumbrances"). The State and the City agree to cooperate with the Developer in good faith to remove any encumbrances which are not Permitted State Encumbrances ("Unpermitted State Encumbrances"). The City shall not be obligated to incur any costs in removing Unpermitted State Encumbrances from any portion of the Property.

3.07 Title Insurance. Within fifteen (15) days of the date hereof, the State shall provide to the City and the Developer a title commitment issued by Chicago Title Insurance Company ("Title Insurer") which initially may be in the nominal amount of \$10,000.00, showing title to the Property vested in DCCA, with the Title Insurer committing to insure title in the City or other intended grantee upon recording of a quitclaim deed of conveyance to such grantee as being proper to vest title pursuant to the Large Business Development Act. Not less than thirty (30) days prior to the conveyance of each portion of the Property to the City, the State shall provide to the City and the Developer an updated title commitment for an owner's title policy issued by the Title Insurer satisfying the aforesaid requirements, but in an amount of coverage designated by the Developer, showing good and merchantable title and subject only to Permitted State Encumbrances. Upon the conveyance of each portion of the Property to the City, the State shall provide to the City a title insurance policy with extended coverage and with such endorsements (including without limitation contiguity and survey endorsements) as may be reasonably requested by the City or the Developer, subject only to the Permitted State Encumbrances. The costs and expenses associated with the issuance of the title commitments and title policies shall be reimbursed or paid by the City to the extent they are Eligible Costs; otherwise such costs and expenses shall be paid by the Developer or any third party contractually committed to the Developer to pay any such costs and expenses. Notwithstanding the foregoing, and in light of the conveyance requirements regarding the Residential Property and

New Horizon Property contained in Section 4.02 and Section 4.03, respectively, no title policy regarding such portion of the Property need be issued to the City.

3.08 Surveys. Within fifteen (15) days of the date hereof, the Developer shall provide to the City and the State a current ALTA survey of the entire Property (or a survey which may not technically meet all the standards of an ALTA survey so long as it is sufficient to cause the Title Insurer to provide extended coverage and a contiguity endorsement and other endorsements as contemplated in Section 3.07, above) with separate legal descriptions for, and depicting thereon, the portions of the Property contemplated to be legally described in Exhibits A, A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-10, A-11, A-12, A-13, (being the Relocation Area referred to in Section 13.02), A-14, A-15 and G-1 and G-2 prepared by a reputable surveyor licensed to do business in the State of Illinois and containing a flood plain certification and otherwise certified to the City, the State, the Developer, the Residential Developer, Eli's, New Horizons, the Title Insurer and other persons or entities they may designate, as appropriate. Not less than thirty (30) days prior to the conveyance of each portion of the Property to the City, the Developer shall provide to the City and the State an updated and recertified ALTA survey covering such portion prepared by such surveyor to the extent required by the Title Insurer. The costs and expenses associated with the preparation of the surveys shall be reimbursed or paid by the City to the extent they are Eligible

Costs; otherwise such costs and expenses shall be paid by the Developer or any third party contractually committed to the Developer to pay any such costs and expenses.

3.09 Real Estate Taxes. Prior to the conveyance of any portion of the Property to the City, the State shall obtain the waiver of any special assessments or general real estate tax liens on such portion.

ARTICLE IV. CITY CONVEYANCES TO THE DEVELOPER

4.01 Eli's Property. Upon the completion of any required environmental remediation of the Eli's Property determined to be necessary as a result of the discovery of an environmental problem by Eli's during the inspection period provided to Eli's and, as a result, agreed to be undertaken by the Developer, all pursuant to and as more fully detailed in Article VIII, and upon the willingness of Eli's to thereupon close its purchase of the Eli's Property from the Developer pursuant to the purchase contract referred to in Article V (or, if Eli's is unwilling or unable to close through no fault of the Developer, upon satisfaction of the conditions set forth in Section 4.05), the City shall convey fee simple title to the Eli's Property to the Developer.

4.02 Unoccupied Residential Property. Immediately after the State conveys the Unoccupied Residential Property to the City, and

upon the willingness of the Residential Developer (hereinafter defined) to thereupon close its purchase of the Unoccupied Residential Property from the Developer pursuant to the purchase contract referred to in Section 7.01, the City shall convey fee simple title to the Unoccupied Residential Property to the Developer, subject to the compliance with the applicable requirements of Article VII.

4.03 New Horizons Property. Immediately after the State conveys the New Horizons Property to the City, the City shall convey fee simple title to the New Horizons Property to the Developer, subject to compliance with the applicable requirements of Article VI.

4.04 Occupied Residential Property. Upon the conveyance of the Occupied Residential Property by the State to the City, and upon the willingness of the Residential Developer to thereupon close its purchase of the Occupied Residential Property from the Developer pursuant to the purchase contract referred to in Section 7.02, the City shall convey fee simple title to such property to the Developer, subject to compliance with the applicable requirements of Article VII.

4.05 Remaining Industrial Property. The Developer shall have the right to acquire title to any portion of the Industrial Property, excluding the Ward Yard Site (title to which shall be retained by the City for the purposes set forth in Section 11.01)

and the Eli's Property if such property has been conveyed pursuant to Section 4.01, on the terms and conditions set forth herein.

(a) Conditions for Acquisition. Provided that the Developer is not in material default in connection with any provision of this Agreement, the Developer shall have the right to acquire title to any portion of the Industrial Property described in this Section 4.05 ("Parcel") then owned by the City subject to the following conditions:

i) Developer's Funds (as defined in Section 12.01) necessary to complete the Industrial Project have been segregated or identified by the Developer to the reasonable satisfaction of the City, or the Industrial Project has been completed and fully paid for or funded for payment; provided, however, that the Developer and the City acknowledge and agree that until either the Industrial Project has been completed or sufficient Developer's Funds, when added to City Funds, have been segregated or identified as aforesaid, the Developer shall dedicate the "net proceeds" realized or deemed realized from any sale of unimproved land or sale or lease of land as part of a build-to-suit project or so-called "spec building" project to satisfying the Developer's Funds requirements as permitted and contemplated in Section 12.01 and item (e) of Article XX. "Net proceeds" shall mean in the event of a sale, (i) the gross selling price of such unimproved Parcel or (ii) \$4.50 per square foot of land as part of a build-to-suit project or so-called "spec building" project, less the normal and

customary costs of sale attributable to the land incurred by a typical seller of industrial property, including title and survey costs and brokers' fees (such brokers' fees not to exceed a combined maximum of six percent (6%) of the sales price and there will be no brokers' fee charged in connection with any sale that is a referral from the City where no third-party outside broker is involved); and "net proceeds" in the event of a lease of a build-to-suit project or so-called "spec building" project shall mean \$4.50 per square foot of land without deduction of any costs as in the case of a sale. No marketing fees or expenses will be subtracted from the sales price in determining net proceeds. If either the Industrial Project has been completed or sufficient funds when added to City Funds have been segregated or identified, the Developer may sell land, or sell or lease build-to-suit and "spec building" projects, without dedication of any proceeds for Developer's Funds requirements. Prior thereto, the Developer covenants and agrees to market for sale, and to sell, unimproved land and not to reserve such land, on a priority basis, for build-to-suit or "spec building" projects; provided, however, that the Developer shall have the right to concurrently market for build-to-suit and "spec building" projects. If the Developer fails to complete the Industrial Project or to provide Developer's Funds to the satisfaction of the City necessary for such purpose within four (4) years of the date hereof, the Developer's rights under this Agreement to acquire the remaining Industrial Property may be terminated by the City; provided, however, that the aforesaid time limit after which the Developer may lose its right to acquire the

remaining Industrial Property shall be extended to the extent that the Developer is able to demonstrate to the reasonable satisfaction of the Commissioner of DPD ("Commissioner") that the Developer is unable to complete the remediation of the Industrial Property as scheduled due to the discovery of additional contamination on the Industrial Property which must be remediated beyond the scope determined by the Environmental Assessment (hereinafter defined), or due to application of remediation solutions to the contamination that prove to be less effective than projected, or due to delays which have been occasioned by the Illinois Environmental Protection Agency's actions or failures to timely act, or due to other causes beyond the Developer's control. Any such extension shall be for a length of time commensurate with the length of the delay as acknowledged in writing from time to time by the Commissioner upon any written request for extension by the Developer;

ii) the intended use of the Parcel is consistent with the PD (hereinafter defined in Section 13.04) in the reasonable judgment of the Commissioner; provided, however, that the decision by the City's Zoning Administrator shall be determinative;

iii) the Developer shall not sell any Parcel, including any sale thereof to a build-to-suit purchaser, for more than \$4.50 a square foot (exclusive of the price of improvements in case of a build-to-suit); provided, however, that any purchaser, in addition to payment of the sales price, is expected to pay customary purchaser's closing costs.

In the event that the Developer proposes to sell to a prospective user of the Parcel ("End User") an unimproved Parcel, the following conditions for acquisition shall also apply:

iv) the End User is qualified to do business with the City and has executed or will execute all appropriate certifications, including, without limitation, an Anti-Scofflaw Affidavit and a Disclosure of Ownership Interests Affidavit;

v) in the reasonable judgment of the Commissioner, the End User is financially capable of constructing the proposed improvements on the Parcel within the time limits specified in Section 4.05(a)(vi) below; and

vi) the improvements shall be constructed on the Parcel within twenty-four (24) months from the date of the deed from the Developer to the End User, subject to force majeure delays.

(b) Notice. The Developer shall exercise its right to acquire a Parcel by giving written notice thereof to the City in accordance with the provisions contained in Section 30.10 (which designee may be changed from time to time by written notice from DPD to the Developer), and which exercise shall be subject to the satisfaction of the conditions and the requirements set forth in this Agreement. Such notice shall contain, and be accompanied by, the following:

- i) a legal description of the Parcel and the size of the Parcel to be acquired;
- ii) the intended use of the Parcel;
- iii) the identity of the End User of the Parcel, if any;
- iv) a copy of the executed contract between the End User and the Developer, if any;
- v) if the Parcel is to be sold unimproved to an End User, an affidavit or certification by the End User that it agrees to be bound by the Bond Ordinance, the T.I.F. Ordinances, the Public Improvements Plans and Specifications, this Agreement, and all federal, state and local laws, regulations, rules or orders then in effect including, but not limited to, any requirements imposed by the City pursuant to any ordinances, resolutions, or executive orders; and
- vi) a statement as to whether the Developer intends to sell an improved or unimproved Parcel. In the event that the Developer intends to sell an unimproved Parcel, the Developer shall also provide financial statements for the last three years of the End User.

As soon as practicable, but in all events within thirty (30) days after receipt of such notice together with all required submissions from the Developer, and after the favorable determinations with respect to the matters specified in Section 4.05(a) above, the City shall tender to the Developer a fully executed deed for the Parcel.

(c) City's Right to Convey. Upon the completion of the Industrial Project as evidenced by the State in accordance with the provisions of Section 9.06 regarding the State's West Campus Building, and as certified by the City in accordance with the provisions of Section 10.08 regarding the Public Improvements, and by the certification by the IEPA in accordance with Section 8.05 regarding environmental remediation matters, the City shall have the right to convey title to the remaining Industrial Property to the Developer, and the Developer agrees to accept title thereto.

(d) Developer's Right to Acquire Entire Remaining Industrial Property. Upon the completion of the Industrial Project, to be evidenced as set forth in Section 4.05(c) above, the Developer may request that the City convey title to the remaining Industrial property to the Developer. Such conveyance by the City shall be subject to the terms and conditions set forth in Sections 4.05(a) and (b), above.

4.06 Form of Deeds. The City shall convey to the Developer fee simple title by recordable quitclaim deed, subject only to those title exceptions set forth on Exhibit I attached hereto ("Permitted City Encumbrances"). The City agrees to cooperate in good faith to remove any encumbrances which are not Permitted City Encumbrances. The City shall have the right to reserve a perpetual easement for utilities over those portions of the Property which are legally described on Exhibit G-1, when it conveys any portion of the Property to the Developer. Each deed for a Parcel which the

Developer has agreed to sell to an End User as vacant shall contain a covenant which requires the End User to construct the approved improvements within twenty-four (24) months from the date of such deed, subject to force majeure delays. With respect to any deed for the Residential Property or any portion thereof, such deed shall also contain a covenant which requires the Residential Developer to demolish any existing buildings thereon, perform any necessary environmental remediation on such property and provide an indemnification as set forth in Section 7.03(d); and, with respect to the Unoccupied Residential Property, to construct a residential building or buildings containing not less than 45 units. The deed for the Eli's Property shall contain a covenant requiring Eli's to construct a not less than 50,000 square foot building, no later than twenty-four (24) months from the date of the deed (or such different time frame for commencement and completion of construction as may be negotiated and contained in the approved purchase contract contemplated in Article V), subject to force majeure delays.

4.07 Reservation for Streets . The City reserves the right to retain fee simple title to the portion of the Property legally described and depicted on Exhibit A-15 for use as a public right-of-way .

4.08 Title Insurance. Not less than thirty (30) days prior to the conveyance of each portion of the Property to the Developer, unless a lesser time is contemplated or required for conveyance

hereunder after the City is in title, the City shall provide to the Developer a title commitment for an owner's title policy issued by the Title Insurer showing good and merchantable title in the City, subject only to the Permitted City Encumbrances. Upon the conveyance of each portion of the Property to the Developer, the City shall provide to the Developer a title insurance policy with extended coverage and with such endorsements as may be reasonably requested by the Developer, subject only to the Permitted City Encumbrances. The costs and expenses associated with the issuance of the title commitments and title policies shall be reimbursed or paid by the City to the extent they are Eligible Costs; otherwise such costs and expenses shall be paid by the Developer or any third party contractually committed to the Developer to pay any such costs and expenses.

4.09 Surveys. If the Developer or the Title Insurer requires an updated survey in connection with the conveyance of any portion of the Property by the City, the Developer shall obtain such survey and the costs and expenses associated therewith shall be reimbursed or paid by the City to the extent they are Eligible Costs; otherwise such costs and expenses shall be paid by the Developer or any third party contractually committed to the Developer to pay any such costs and expenses.

4.10 Real Estate Taxes. Prior to the conveyance of any portion of the Property to the Developer, the City shall obtain the

waiver of any special assessments or general real estate tax liens on such portion.

4.11 Prerequisite to Conveyance of the Industrial Property to Developer. Notwithstanding any provision herein to the contrary, no interest in the Industrial Property shall be conveyed to the Developer prior to the receipt by the City of the following, which shall be prepared by treating the Industrial Property then proposed to be conveyed to the Developer and all the Industrial Property previously conveyed to and retained by the Developer or any private party as the Industrial Property not currently owned by the City:

(i) a current Schedule of Sources and Uses of City and Developer's Funds, in the form attached hereto as Exhibit Y, showing actual sources and uses to date; and

(ii) a statement of the Developer certifying that the aggregate amount of City Funds spent to date with respect to the Industrial Property not currently owned and not expected to be owned by the City equals or exceeds the aggregate amount of Developer's Funds spent to date with respect to the Industrial Property currently owned or expected to be owned by the City. For the purposes hereof and the requirements of item (ii) of the last sentence of Section 12.08, Industrial Property owned or expected to be owned by the City shall not only consist of portions thereof that are owned in fee ownership by the City, by dedication or otherwise, but shall also consist of easement areas within which

public infrastructure improvements are constructed or installed with respect to which the City has or will have the ownership and/or maintenance responsibility.

If the Developer has identified an End User for a Parcel and desires to take a conveyance thereof in accordance with the provisions of Sections 4.05(a) and (b) but it is unable to provide the certified statement required by item (ii) of this Section 4.11, the City may in cooperation with the Developer elect to convey to the Developer, and the Developer may elect to take title to, such additional portion of the Industrial Property ("Early Take-Down Parcel") as might be necessary to permit the Developer to provide such certified statement. In such event, the City and Developer shall determine in good faith the basis upon which the City will reimburse the Developer amounts equal to the amounts incurred by the Developer for general real estate taxes assessed against the Early Take-Down Parcel prior to its disposition to an End User, or the agreed period of time allotted for such a disposition, whichever is the shorter time period, which reimbursement shall be made from the Incremental Taxes (as hereinafter defined in Section 12.06) collected with regard to the Early Take-Down Parcel but shall be reimbursed only on account of Redevelopment Project Costs incurred by the Developer.

ARTICLE V. DEVELOPER'S CONVEYANCE TO ELI'S

In a coordinated closing with the City's conveyance of the Eli's Property to the Developer, the Developer shall convey fee simple title to Eli's pursuant to that certain purchase contract attached hereto as Exhibit J, which purchase contract shall have been entered into by the parties thereto by not later than the date hereof, evidence of which shall be furnished to the City. The deed from the Developer to Eli's shall contain a covenant requiring Eli's to construct a not less than 50,000 square foot building by no later than twenty-four (24) months from the date of the deed (or such different time frame for commencement of construction as may be negotiated and contained in the approved purchase contract referred to above), subject to force majeure delays. Prior to the conveyance of the Eli's Property to the Developer, the City shall be furnished evidence to its satisfaction that funds are committed and available to construct the contemplated improvements and facilities on the Eli's Property. The construction of such improvements and facilities shall be in accordance with plans and specifications approved by the City and said purchase contract shall so provide.

The City may by separate agreement with Eli's agree to reimburse Eli's from Incremental Taxes, as defined in Section 12.06 hereof, or pay or credit Eli's with other resources or subsidies for Redevelopment Project Costs as determined by the Commissioner,

relating to the acquisition of the Eli's Property and the construction of improvements thereon.

ARTICLE VI. DEVELOPER'S CONVEYANCE TO NEW HORIZONS

New Horizons currently leases from the State the New Horizons Property and a portion of the Phase 1 Property by virtue of that certain lease dated March 20, 1988, between New Horizons and the State (and approved by DMHDD on March 24, 1988). Concurrently with the conveyance by the State of the New Horizons Property to the City, the State and New Horizons shall terminate such lease by appropriate instrument in writing, and the City thereupon shall convey fee simple title to the New Horizons Property to the Developer and the Developer thereupon shall convey fee simple title to the New Horizons Property to New Horizons. The conveyance from the Developer to New Horizons shall be governed by the terms of the agreement attached hereto as Exhibit K ("New Horizons Agreement"). The City agrees that it shall contribute City Funds in the amount of \$386,351.78 as payment due New Horizons pursuant to the New Horizons Agreement and that the City shall further contribute City Funds of \$29,203, being the remaining amount of the total amount of \$415,554.78 (\$415,555 rounded up) for New Horizons as noted in the Project Budget (hereinafter defined) as the amount budgeted for the expansion by the Developer of a water line and sewer line to the New Horizons Property as required under the New Horizons Agreement. The New Horizons Agreement shall be entered into by the Developer and New

Horizons, and shall require New Horizons to agree not to sue the City for any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, attorneys' fees and costs) suffered or incurred by New Horizons in connection with any soil or environmental condition of the New Horizons Property. The State agrees to cooperate with the parties in satisfying their obligations under the New Horizons Agreement.

ARTICLE VII. DEVELOPER'S CONVEYANCES TO RESIDENTIAL DEVELOPER

7.01 Unoccupied Residential Property. In a coordinated closing with the City's conveyance of the Unoccupied Residential Property to the Developer, the Developer shall convey fee simple to such property to Dunning Properties Limited Partnership, III, an Illinois limited partnership (or the designated nominee thereof) ("Residential Developer"), pursuant to that certain purchase contract attached hereto as Exhibit L.

7.02 Occupied Residential Property. Upon the conveyance of the Occupied Residential Property by the State to the City and the conveyance of the Occupied Residential Property by the City to the Developer, the Developer, in a coordinated closing with the City's conveyance to the Developer, shall convey fee simple title to such property to the Residential Developer, pursuant to that certain purchase contract attached hereto as Exhibit L.

7.03 Demolition; Remediation; Indemnification. The purchase contract between the Developer and the Residential Developer shall require the Residential Developer, at its cost and expense, to do the following:

(a) Demolish any existing buildings on the Residential Property;

(b) Perform any necessary environmental remediation on the Residential Property;

(c) Construct a residential building or buildings containing not less than 45 units on the Unoccupied Residential Property, which construction shall be completed within eighteen (18) months after the conveyance to the Residential Developer, subject to force majeure delays;

(d) Indemnify, defend and save harmless the City and the Developer from any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, attorneys' fees and costs) suffered or incurred by the City and the Developer arising from or in connection with any soil or environmental condition of the Residential Property and undertake and discharge all liabilities of the City and the Developer arising from the condition of the Residential Property;

(e) Satisfy the requirements of Section 13.05; and

(f) Complete the work described in paragraph 17B of the residential contract attached hereto as Exhibit L.

ARTICLE VIII. ENVIRONMENTAL REMEDIATION OF INDUSTRIAL PROPERTY

8.01 Remediation Tasks. The parties acknowledge that the Industrial Property contains hazardous materials and requires certain environmental remediation as more particularly set forth in that certain Phase 1 Environmental Assessment Resurvey prepared by Versar, Inc. and contained in its letter of May 12, 1993 to Ms. Kathy Olson of The Alter Group, Ltd. as Job No. 2038.001, that certain Asbestos Materials Investigation dated March, 1993 prepared by Versar, Inc. as Job No. 2038.002, and that certain Environmental Assessment - Phase II report dated March, 1993 prepared by Versar, Inc. as Job No. 2038.003, and that certain Remedial Technology Evaluation and Cost Analysis dated April, 1994 prepared by Versar, Inc. as Job No. 2435.001 (together, the "Environmental Assessment"). In furtherance of the parties desire to participate in the voluntary clean-up program of the Illinois Environmental Protection Agency ("IEPA"), the Developer has submitted or agrees to submit, an environmental site assessment (reflecting those matters contained in the Environmental Assessment) and a proposed remediation plan to the IEPA for approval reflecting the undertakings of the Developer contained in this Section 8.01 and

the undertakings of the State contained in Section 8.02(c). The proposed remediation plan shall provide that the Developer shall perform those remediation tasks on the Phase 1 Property and the Phase 2 Property set forth on Exhibit M-1 attached hereto, as well as any other remediation tasks required by the IEPA, so that when coupled with completion of the tasks undertaken by the State under Section 8.02(c) the Developer can obtain the IEPA certifications contemplated in Section 8.05.

If Hazardous Materials (hereinafter defined in Section 23.02) are discovered on the Industrial Property in locations or in quantities which were not described in the Environmental Assessment, upon the Developer's request, the parties shall cooperate with each other and work in good faith to agree upon mutually satisfactory changes in the design and/or location of the Public Improvements, which shall be implemented by appropriate Change Order(s), if such changes will reduce the costs to remediate such Hazardous Materials and will not materially, adversely affect the Industrial Project; provided that such agreement to cooperate shall in no way be construed as limiting the undertakings of the Developer generally provided for in Article VIII.

8.02 Funding.

(a) City Funding. The sources for funding of the environmental remediation tasks to be undertaken under the remediation plan contemplated in Section 8.01 shall be as hereinafter provided in this Section 8.02. The City agrees to

contribute an amount not to exceed \$1,889,200.00 (of which \$1,185,511.00 shall be allocated to the Phase 1 Property, and \$703,689.00 shall be allocated to the Phase 2 Property) toward the direct and indirect costs of environmental remediation (inclusive of environmental consultants' costs) of the Industrial Property, on the terms and conditions of this Article VIII, it being acknowledged that the total budgeted direct and indirect costs of environmental remediation is \$2,008,606.00. The parties acknowledge that the City has already disbursed \$101,212.73 of the aforesaid sum pursuant to the terms of the Chicago Read-Dunning Preliminary Redevelopment Agreement entered into by the City and the Developer on or as of November 12, 1992 ("Preliminary Redevelopment Agreement"). All additional City Funds allocated to the cost of remediation shall be disbursed in accordance with the provisions of Section 12.03, below.

(b) Developer Funding. The Developer shall be solely responsible, by use of Developer's Funds, for payment of the amount by which the actual direct and indirect costs of environmental remediation (inclusive of environmental consultants' costs) of the Industrial Property exceeds \$1,889,200.00, and further agrees to advance amounts on account of cost overruns for environmental remediation in excess of \$2,008,606.00 up to \$300,000.00. The funding obligation of the Developer shall be utilized based on whether the City's funding obligation for environmental remediation has been exceeded as allocated between the Phase 1 Property and the Phase 2 Property as set forth in Section 8.02 (a), above. In the

event that the projected or actual cost of remediation exceeds \$2,308,606.00 and no party is willing to pay such excess costs, the parties agree that the Developer or the City may terminate this Agreement as it relates to the portion of the Industrial Property in question and reconvey or cause the same to be reconveyed to the State. In the event that the projected or actual cost of remediation of the New Horizons Property exceeds \$10,000, the parties agree that the Developer may terminate this Agreement as to the New Horizons Property, or the portion of the New Horizons Property in question, and that the Developer or New Horizons may reconvey or cause the same to be reconveyed to the State.

(c) State Funding. The State acknowledges that it has heretofore performed, is in the process of performing, or shall perform those remediation tasks on the Industrial Property set forth on Exhibit M-2 attached hereto. The State shall use reasonable efforts to adhere to the timetable set forth in Exhibit M-2 and coordinate its performance of such tasks with the tasks to be undertaken by the Developer as provided in Section 8.01. The State shall be solely responsible for all direct and indirect costs (including environmental consultants' costs) relating to those environmental tasks set forth on Exhibit M-2.

8.03 Phase 1 Property.

(a) Selection of Environmental Consultant. In connection with the execution and delivery of this Agreement, the Developer shall advise the City whether Versar, Inc., as preparer

of the Environmental Assessment, shall be engaged as the environmental consultant to prepare plans and specifications for the environmental remediation on the Phase 1 Property and the portion of the soils (including asbestos in underground tunnels) of the Phase 2 Property intended to be remediated with the remediation of the Phase 1 Property. If the Developer decides to recommend an environmental consultant other than Versar, Inc. for such purpose, it shall advise the City of its reasons therefor and what, if any, increased costs might have to be incurred to engage another environmental consultant for such purpose. In such event, at or prior to the execution and delivery of this Agreement, the Developer shall submit to the Commissioner the name of the environmental consultant it would like to engage to prepare such plans and specifications. The Commissioner then shall have ten (10) days within which to approve or reject the proposed environmental consultant. If the Commissioner rejects the proposed environmental consultant, the Developer shall submit the names of three (3) alternative environmental consultants. The Commissioner shall select an environmental consultant from the three (3) alternatives within fourteen (14) days after such names have been submitted.

(b) Approval of Contract for Consultant. Within ten (10) days after the Commissioner has approved the environmental consultant ("Environmental Consultant"), the Developer shall submit to the Commissioner a proposed contract between the Developer and

the Environmental Consultant. The contract between the Developer and the Environmental Consultant shall include the preparation of plans and specifications for those remediation tasks set forth on Exhibit M-1 relating to the Phase 1 Property and may include the preparation of plans and specifications for the remediation of the soil of the Phase 2 Property, inclusive of asbestos in underground tunnels.

(c) Selection of Environmental Contractor(s). Within sixty (60) days from the date that the plans and specifications for the environmental remediation have been completed, which shall be inclusive of and cover any remediation tasks that may be necessary to clean up the Wright College Site, inclusive of the Ward Yard Site (and which shall be included as an alternate in the contract(s) referred to in subsection (d) next below based on whether access to the Wright College Site for remediation purposes can be obtained during the expected duration of the contract(s) in light of the Wright College Lease; otherwise such remediation tasks shall be covered in the contract(s) contemplated in Section 8.04, below), the Developer shall use its best efforts to conclude the bid process in accordance with the same bid requirements as those contained in Section 10.05, below, and the Developer shall submit to the Commissioner the name of the environmental contractor(s) that it would like to engage to perform the environmental remediation on the Phase 1 Property and the soils (including asbestos in underground tunnels) of the Phase 2 Property intended

to be remediated with the remediation of the Phase 1 Property on such bid process.

(d) Approval of Contract(s) for Remediation. Within ten (10) days after the Commissioner has approved the environmental contractor(s), the Developer shall submit to the Commissioner proposed contract(s) between the Developer and the environmental contractor(s) ("Environmental Contractor"). The City agrees that City Funds allocated in the Eligible Costs Budget for remediation of soils and asbestos in underground tunnels for the Phase 2 Property may be disbursed therefor if incurred pursuant to such contract(s) with the Environmental Contractor(s) even if prior to conveyance to the City of the Phase 2 Property, provided that the State has approved the Developer's West Campus Plans and Specifications as defined in Article IX, and that access to the Phase 2 Property for soil remediation is deemed approved by the State in accordance with Section 19.01. The contract(s) shall also include provisions which require the Environmental Contractor(s) to submit monthly progress reports to the City, and which permit representatives from the City to perform on-site inspections of the work being performed by the Environmental Contractor(s).

The Commissioner shall have fourteen (14) days to review the proposed contract(s). If the Commissioner does not approve the contract(s) within fourteen (14) days, she shall specify her objections in writing to the Developer. The Developer shall then

have fourteen (14) days to submit revised contract(s) to the Commissioner.

8.04 Phase 2 Property.

(a) Selection of Environmental Consultant. Unless previously recommended and/or selected at the time of selection pursuant to Section 8.03(a), above, by not later than ten (10) days after the latter to occur of the construction of the State's West Campus Building and the conveyance of the Phase 2 Property to the City, the Developer shall submit to the Commissioner the name of the environmental consultant that it would like to engage to prepare plans and specifications for the remaining environmental remediation on the Phase 2 Property (and possibly incorporating plans and specifications for remediation of the Wright College Site, inclusive of the Ward Yard Site, if remediation thereof was not completed pursuant to Section 8.03).

(b) Approval of Environmental Consultant, Environmental Contractor(s) and Contract(s) for Remediation. The Commissioner shall approve the environmental consultant for the preparation of the remediation plans and specifications, be apprised of the environmental contractor(s) in accordance with the bid requirements and approve the contract(s) between the Developer and the environmental contractor(s), all in accordance with the pertinent provisions set forth in Section 8.03, above.

8.05 Certification. Upon the completion of the environmental remediation of each of the Phase 1 Property and the Phase 2 Property, the Developer shall provide, or cause to be provided to the City, a certification from the IEPA indicating that the Phase 1 Property and the Phase 2 Property have been remediated in accordance with the approved remediation plan.

8.06 Indemnification. The Developer agrees to indemnify, defend and hold harmless the City from any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, attorneys' fees and costs) suffered or incurred by the City arising from or in connection with any soil or environmental condition of the Industrial Property and to undertake and discharge all liabilities of the City arising from any condition existing on the Industrial Property.

8.07 Replacement of Consultant. The City agrees to act promptly and reasonably in connection with any request by the Developer to replace the then acting Environmental Consultant provided that the Developer can demonstrate to the reasonable satisfaction of the City an appropriate reason therefor and that the replacement of the Environmental Consultant is in the best interest of completing the Industrial Project.

ARTICLE IX. STATE'S WEST CAMPUS BUILDING

9.01 Replacement Building. The Phase 2 Property and the Occupied Residential Property are currently improved with buildings occupied or utilized by the State. The Developer agrees to construct a 47,900 square foot replacement building for the State on DMHDD's West Campus as shown on the Site Plan ("State's West Campus Building"), and to demolish the existing buildings and improvements on the Phase 2 Property upon their vacation by the State.

9.02 Funding. The City agrees that it shall contribute, in the manner hereinafter provided, City Funds in the amount of \$1,646,642.00 for the construction of the State's West Campus Building as part of the T.I.F. Eligible Improvements in accordance with the provisions of Article XII. Any additional sums necessary for the construction of the State's West Campus Building shall be paid by the State if such additional sums are the result of Change Orders made by the State. The Developer agrees that the anticipated sale proceeds of \$1,000,000.00 to be received from the Residential Developer for the Residential Property shall be directed to the payment for costs incurred in construction of the State's West Campus Building as a consideration due the State from the Residential Developer for the Residential Property. All other additional sums shall be the responsibility of the Developer. The Developer agrees to obtain or provide, or cause to be obtained or provided, from a source other than the City or the State, interim

financing for the construction of the State's West Campus Building. When required to be paid by the City pursuant to the provisions of this Section 9.02, such City Funds shall be paid by the City to the State by depositing such funds into the escrow described in Section 12.03 (at which time there will also be deposited by the Developer in such escrow the aforesaid funds received from the sale of the Residential Property) in order that the State in turn can pay its obligations under such construction contract. The City shall contribute such City Funds for the State's West Campus Building upon the State issuing the State Certificate of Completion (as defined in Section 9.06); provided, however, that the State has deposited in escrow the necessary conveyance documents and escrow deposits, as provided for in Section 3.03, for conveyance by the State upon its vacation thereof of the Phase 2 Property and the Occupied Residential Property.

9.03 Plans and Specifications; Construction Contract. The Developer hereby represents that it has heretofore submitted to the State for approval, and the State has approved, preliminary Plans and Specifications for the State's West Campus Building, evidence of which has been furnished to the City. By not later than forty-five (45) days after the execution of this Agreement, the Developer shall submit to the State final Plans and Specifications. The State shall within thirty (30) days of submission approve the final Plans and Specifications (the "West Campus Plans and Specifications"), and thereupon enter into the construction

contract related thereto, copies of all of which shall promptly be furnished to the City.

9.04 Change Orders. The term "Change Order" as used in this Agreement shall mean any amendment or modification to the applicable Plans and Specifications, or the time frame for commencement or completion of the Industrial Project, or any part thereof, as approved by the City. The City reserves, and shall have, the right to review all Change Orders related to the State's West Campus Building which either (i) increase the aggregate cost of completing the State's West Campus Building or (ii) extend the completion date, for the express and sole purpose of determining whether there will be sufficient funds available and committed to complete the State's West Campus Building. The Developer and the general contractor shall not authorize or permit any construction relating to the State's West Campus Building or the furnishing of materials in connection with the State's West Campus Building pursuant to any such Change Order without permitting the City's review thereof to demonstrate to the City's reasonable satisfaction that necessary funds to complete are available and committed, which review the City agrees to complete within ten (10) days from when the City receives a copy of the Change Order. The request shall contain documentation substantiating the need for the Change Order. The construction contract with the general contractor for the State's West Campus Building shall contain a provision to this effect.

9.05 Commencement and Completion of Construction. The Developer shall cause Alter Design Builders, Inc., its affiliate and the general contractor for the State's West Campus Building, to commence construction of the State's West Campus Building no later than forty-five (45) days after approval of the West Campus Plans and Specifications by the State, provided that the building permit therefor has been issued by the City. The Developer shall cause Alter Design Builders, Inc. to promptly apply for a building permit from the City upon approval of the West Campus Plans and Specifications and to complete construction of the State's West Campus Building no later than eighteen (18) months after such approval. The Developer or the general contractor shall notify the State and the City of the anticipated completion date in accordance with the provisions of Section 9.08, below.

9.06 State Certificate of Completion. Promptly upon the completion of the construction of the State's West Campus Building, the Developer or its general contractor shall certify in writing to the City and the State that the construction has been completed. Concurrently with the delivery of such certificate, the Developer shall request in writing that the State furnish the Developer with an instrument certifying such completion ("State Certificate of Completion"). The Developer and/or the general contractor and the State, based on the advanced notice of anticipated completion required to be given pursuant to Section 9.08, shall work in cooperation to seek to be in a position to have the State provide to the Developer and the City, promptly after receipt of the

written request for a Certificate of Completion, either a State Certificate of Completion or a written statement indicating in adequate detail how the work is not sufficiently complete so that the State can occupy or utilize the State's West Campus Building for the use for which it is intended as set forth in the construction contract, and what measures or acts will be necessary for the Developer to perform in order to obtain a State Certificate of Completion. The Developer shall resubmit a written request for a State Certificate of Completion upon compliance with such State's requirements regarding compliance with the West Campus Plans and Specifications. The State's failure to respond to the Developer's written request for a State Certificate of Completion within five (5) days of receipt of such request shall be deemed to be an approval of satisfactory completion of the State's West Campus Building for the purposes of this Agreement. By not later than the date that the State issues its State Certificate of Completion or the date of deemed approval of satisfactory completion as aforesaid, the State in cooperation with the Developer and the City shall take the steps provided for in the last sentence of the first paragraph of Section 3.03 in furtherance of the conveyance of the Phase 2 Property and Occupied Residential Property upon vacation thereof pursuant to Section 9.08.

9.07 Progress Reports. The Developer shall provide DPD with monthly written progress reports detailing the construction status of the State's West Campus Building.

9.08 Vacation of Buildings. The Developer shall give the State thirty (30) days' prior written notice of the anticipated completion date of the State's West Campus Building to allow the State to begin the process of preparing for the vacation of the buildings situated on the Phase 2 Property and the Occupied Residential Property and monitoring completion for the purposes of its timely issuance of the State's Certificate of Completion provided for in Section 9.06, above. Within thirty (30) days after the State issues the State Certificate of Completion or is otherwise deemed to have approved satisfactory completion of the State's West Campus Building, the State shall complete the vacation of the buildings. The State shall remove all furnishings and material from the buildings and leave them in broom clean condition.

ARTICLE X. PUBLIC IMPROVEMENTS

10.01 Funding. The City agrees that it shall contribute an amount not to exceed \$2,234,158.00 to finance the direct and indirect costs (inclusive of applicable consultants' costs) of the Public Improvements (defined in Recital F), consisting of the demolition of the existing structures and improvements on the Industrial Property and the construction and installation of the infrastructure improvements and more fully described on Exhibit D attached hereto on or for the benefit of the Industrial Property (and, notwithstanding the provisions of Section 13.02, may include actual or deemed allocable grave relocation costs of \$30,000.00 for

areas where infrastructure improvements are to be located), as part of the Industrial Project in accordance with the provisions of Article XII. The parties acknowledge that the City has already disbursed \$198,787.27 of the aforesaid sum on account of the preparation of pre-final plans and specifications for the public infrastructure portion of the Public Improvements pursuant to the Preliminary Redevelopment Agreement. Any additional sums necessary for the costs of the Public Improvements shall be paid by the Developer (it being agreed that to the extent at all possible City Funds shall be allocated to infrastructure components of the Public Improvements that will be owned by and/or dedicated for ownership to the City, and funds required to be paid by the Developer shall be allocated to any such demolition component not attributable to property to be owned by the City), subject to the budget reallocation provisions of Section 12.01, with suitable evidence of the availability and commitment of any such required funds for such purpose to be provided to the City.

10.02 Plans and Specifications. The Developer shall construct the Public Improvements in accordance with this Agreement, the PD, the Redevelopment Plan, the T.I.F. Ordinances, the Bond Ordinance, and the final construction drawings and all amendments thereto ("Public Improvements Plans and Specifications"), as approved by the City pursuant to this Section 10.02. The Developer has delivered to the City for its approval the Public Improvements Plans and Specifications. If not already

approved, the City shall have thirty (30) days from the date of this Agreement to approve the Public Improvements Plans and Specifications. If the City rejects the same, it shall indicate the reasons therefor. The Developer shall then have an additional fourteen (14) days to submit revised Public Improvements Plans and Specifications for approval.

10.03 Change Orders. Except as set forth below, the City reserves the right to review all Change Orders related to the Public Improvements to determine whether construction of the Public Improvements is in compliance with the provisions of this Agreement and all Exhibits attached hereto, the Public Improvements Plans and Specifications, the Redevelopment Plan, the T.I.F. Ordinances and the Bond Ordinance. The review process shall be as follows: with the exception of a change order that does not change the Public Improvements Plans and Specifications but only covers changes, the cost of which can be paid from demonstrable savings from another line item of the Project Budget (hereinafter defined) covering Public Improvements at a cost that does not exceed fifty thousand dollars (\$50,000.00) individually and when added to other Change Orders would not exceed in the aggregate three hundred fifty thousand dollars (\$350,000.00) (which shall not require prior written approval of the City), the Developer shall not authorize or permit the performance of any demolition or construction relating to the Public Improvements or the furnishing of materials in connection with the Public Improvements pursuant to any Change Order without the City's prior written approval which shall be

given or denied within fourteen (14) days after the City receives the request for the Change Order. The request shall contain documentation substantiating the need for the Change Order. The construction contract(s) between the Developer and the general contractor(s) shall contain a provision to this effect.

10.04 Limited City Approval. Any approvals made by the City of the Public Improvements Plans and Specifications and any Change Orders related thereto are for the purposes of this Agreement only and do not affect or constitute approvals required by any City department other than DPD or for building permits or approvals required by any City ordinance, code or regulation, nor does any approval by the City pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project. Any approval made by the City of the Public Improvements Plans and Specifications, and any Change Orders shall have no effect upon nor shall it operate as a waiver of the Developer's obligations to comply with all City codes, ordinances and regulations. Any approval of any Change Order shall not be deemed to imply any obligation by the City to increase funding or provide any other assistance to the Developer.

10.05 Bid Requirements. Upon approval of the Public Improvements Plans and Specifications by the City, the Developer shall solicit bids from qualified contractors in accordance with the requirements of the Municipal Purchasing Act for Cities of 500,000 or More Population, 65 ILCS 5/8-10-1 et seq. (1992) and

the City's purchasing guidelines. The Developer shall select the contractor who has submitted the lowest responsible bid. The City shall have the right to inspect all bids submitted and shall have final approval over the bid process. If the Developer selects a contractor other than the lowest responsible bidder, the Developer shall pay the difference between the lowest responsible bidder and the bidder selected.

10.06 Construction Contract. The Developer shall enter into construction contract(s) with the contractor(s) selected to construct the Public Improvements in accordance with Section 10.05, above. The construction contract(s) shall contain a provision regarding Change Orders in accordance with Section 10.03, above. The construction contract(s) shall be for a stipulated sum or for the cost of the work plus a fee with a guaranteed maximum price, unless otherwise expressly agreed to by the City, and shall contain provisions satisfying the bonding requirements of Article XVI. Within seven (7) days after execution of the construction contract(s) and prior to disbursement of any City Funds for payment of the cost of the Public Improvements, the Developer shall deliver to DPD and the City's Corporation Counsel a certified copy of the construction contract(s) together with any modifications, amendments, or supplements thereto.

10.07 Commencement and Completion. The Developer shall contract for, and commence construction of, the Public Improvements on each portion of the Industrial Property no later than forty-five

(45) days after the completion of the environmental remediation of that portion of the Industrial Property as described in Article VIII above, provided that the Public Improvements Plans and Specifications therefor have been approved as provided in Section 10.02. Construction of the Public Improvements shall proceed in phases and shall be completed pursuant to the timetable set forth in Exhibit N attached hereto.

10.08 City Certificate of Completion. After completion of the construction of each phase of the Public Improvements as detailed in Exhibit N, the Developer shall furnish the City with an appropriate instrument so certifying such completion and certifying that either (i) no inspections by the City during the course of construction of such Public Improvements have resulted in the City's sending to the Developer violation notices providing that the Developer has not constructed the Public Improvements in accordance with the Public Improvements Plans and Specifications, or (ii) if any such violation notices have been sent, such violations have been cured, or Developer disputes the existence of such violations. Concurrently with the delivery of such certificate, the Developer shall request in writing that the Commissioner furnish the Developer with an instrument certifying such completion (the "City Certificate of Completion"). However, if the Developer disputes the existence of any violations as charged by the City or any other federal, state or local governmental entity, the Commissioner shall not be required to issue a City Certificate of Completion until the Developer has produced evidence

satisfactory to DPD that no such violations exist. The City Certificate of Completion shall be a conclusive determination of the satisfaction of the obligations of the Developer to construct the Public Improvements in accordance with the Public Improvements Plans and Specifications. The City Certificate of Completion shall be in such form as will enable it to be recorded. The Commissioner shall respond to Developer's written request for a City Certificate of Completion within thirty (30) days after the Commissioner's receipt thereof, either with the issuance of the City Certificate of Completion, or with a written statement indicating how the Developer has failed to complete the construction in accordance with the Public Improvements Plans and Specifications or otherwise in conformity with this Agreement and what measures or acts will be necessary, in the opinion of the Commissioner, for the Developer to take or perform in order to obtain the requested certification. If the Commissioner requires additional measures or acts of the Developer to assure compliance, the Developer shall resubmit a written request for a City Certificate of Completion upon the completion of the additional measures or acts required by the Commissioner.

10.09 Progress Report. The Developer shall provide DPD with monthly written progress reports detailing the construction status of the Public Improvements.

10.10 Utility Connections. The City agrees it shall not arbitrarily deny the Developer the right to connect all on-site

water lines, sanitary lines and storm sewer lines constructed on the Industrial Property to City utility lines, provided that the Developer first complies with all requirements of general applicability promulgated by the City for such connections, including the payment of fees and costs related thereto. The Developer shall repair any damage to the surface of any right-of-way caused by the Developer's connection of utility lines, whether or not such connections are made as part of the T.I.F. Eligible Improvements or as part of the development of any Parcel within the Project.

10.11 Relocation of Spur Road. Subject to the approval of the City, the Developer shall have the right, but not the obligation, to relocate a portion of the Spur Road (as depicted on the Site Plan attached hereto as Exhibit B) such that the Spur Road shall run to the north of the Oak Park Avenue Lot (hereinafter defined in Section 13.01) and in the manner depicted on Exhibit O attached hereto. If the Developer elects to relocate the Spur Road, upon completion of the new portion of the Spur Road, the Developer shall (i) remove the road surface of those portions of the original Spur Road which are made obsolete as a result of such relocation, (ii) excavate below such road surface to a maximum depth of three inches (3") below grade, and (iii) place soil on such excavated areas to restore such property to the original grade and allow for future landscaping. The State hereby grants to the Developer and its contractors any licenses that the Developer deems necessary, on or over the Memorial Park Property, the Phase 2

Property (to extent that it is still owned by the State) and the Phase 3 Property to relocate the Spur Road as herein contemplated. If the Developer exercises its right to relocate the Spur Road, then such relocation shall be at the Developer's sole cost and expense, which costs shall not be reimbursed from the proceeds of the Bonds or from Incremental Taxes as defined herein unless funds are available from demonstrated savings in any Project Budget line item, in which event the amount of such savings may be used, but only after the full Industrial Project has been completed. The Developer shall obtain all governmental permits, licenses and approvals required to relocate the Spur Road if it elects to relocate the Spur Road. Upon completion of the relocation of the Spur Road in accordance with City standards, the City agrees to accept the dedication thereof; provided, however, that the City shall not accept such dedication unless the Developer submits the documentation required under clauses (i) and (ii) of Section 4.11 demonstrating that, as of the date of such dedication and taking such dedication into account, the aggregate amount of City Funds spent with respect to the Industrial Property not currently owned or expected to be owned by the City equals or exceeds the aggregate amount of Developer's Funds spent with respect to the Industrial Property currently owned or expected to be owned by the City.

10.12 Restrictions on the Developer's Use of the Spur Road. The Developer may not use the Spur Road for any purpose until DMHDD has been completely relocated from the Phase 2 Property

to the State's West Campus Building. After DMHDD has relocated its operations from the Phase 2 Property, but prior to the date on which the State vacates the existing DMHDD buildings on the Phase 3 Property, the Developer, and its agents, employees, licensees and invitees, shall have the right to use the Spur Road solely for pedestrian and passenger vehicle purposes, and the Developer shall establish for itself and its agents, employees, licensees and invitees, reasonable rules and regulations regarding the use of the Spur Road so as to protect the health, safety and welfare of the occupants of the existing DMHDD buildings on the Phase 3 Property. The State agrees to execute any documentation necessary or appropriate to evidence the Developer's right to use the Spur Road as herein provided. The restrictions set forth in this Section 10.12 shall not be modified, restricted or otherwise affected by a relocation of a portion of the Spur Road pursuant to Section 10.11 hereof.

ARTICLE XI. WARD YARD

11.01 Funding. The City plans to construct a Ward Yard on an approximately 1.3 acre tract of land which is part of the Phase 1 Property and which is legally described on Exhibit A-7 attached hereto, at a cost of approximately \$843,648.00 (which is intended to be paid for from proceeds of the Bonds allocated in such amount and, to the extent necessary, from Incremental Taxes. Notwithstanding the foregoing, the Developer shall perform any

necessary environmental remediation, as set forth on Exhibit M-1, and construct any applicable Public Improvements, as set forth on Exhibits D and N, on or serving the Ward Yard Site (including the relocation of any utilities currently on the Ward Yard Site currently serving the Latvian School parcel to the North of the Ward Yard Site) subject, as to timing only, to the Developer's ability to obtain access to the Wright College Site in light of the Wright College Lease.

11.02 Coordination with Industrial Project. The Developer and the City agree to cooperate in good faith, and in a timely and responsible manner, to coordinate their respective efforts with respect to the Industrial Project and the Ward Yard. The Developer acknowledges that it has sufficiently reviewed a preliminary site plan and prototype architectural plans provided by the City that are intended to form the basis for the plans and specifications that will be used to construct the Ward Yard, and that construction of the Ward Yard in substantial compliance therewith is acceptable to the Developer as being compatible with the Declaration of Protective Covenants ("Declaration") intended to be recorded against the Industrial Property (other than the Ward Yard), a copy of which Declaration has been furnished by the Developer to the City. The Ward Yard Site shall not be encumbered by such Declaration. However, the City agrees that its Department of Streets and Sanitation shall operate and maintain the Ward Yard in a manner that will be compatible with the remaining Industrial

Property, while fulfilling the normal and recurring operating requirements of such a Ward Yard facility.

11.03 Change of Use or Sale. In the event that the City wishes to devote the Ward Yard Site to some other use and the Developer still has an ownership interest in any portion of the Industrial Property or the Phase 3 Property, the City agrees that such other use shall not be inconsistent with the nature of the improvements on the Industrial Property. If the City decides to relinquish all or any portion of the Ward Yard Site and the Developer still has an ownership interest in any portion of the Industrial Property or the Phase 3 Property, the City shall give not less than thirty (30) days' written notice thereof to the Developer, which notice shall contain an offer to the Developer to acquire the same on the terms and conditions set forth in such offer. Within such thirty (30) day period, the Developer shall have the option (the "Right of First Option"), exercisable by written notice to the City, to accept such offer and to acquire the property. If the Developer accepts the City's offer pursuant to the Right of First Option, the transfer shall be consummated according to such terms as expeditiously as possible, but in any event within sixty (60) days of the date of such timely acceptance. If the Developer elects not to exercise its Right of First Option in a timely manner, or if the Developer defaults and fails to timely consummate the acquisition, then the Developer's Right of First Option shall terminate and the City shall thereafter have the right to transfer the Ward Yard Site or any part thereof to a third

party; provided, however, that if the City seeks to transfer the Ward Yard Site or any part thereof to a third party on materially better terms to such third party after the failure or refusal of the Developer to accept an offer pursuant to its Right of First Option, the City agrees to notify the Developer thereof and the Developer shall once again have a Right of First Option to acquire the same on such materially better terms. For the purposes hereof, the term "materially better terms" shall mean a price, if a financial payment is required to be paid, that is less than ninety-five percent (95%) than that previously offered. It is expressly acknowledged that, so long as the Bonds or any applicable T.I.F. Bonds are outstanding, any such transfer shall be subject to receipt of an opinion from bond counsel, satisfactory in form and content to the City, that the transfer on the terms contemplated will not adversely affect the tax-exempt status of the Bonds or any subsequently issued applicable T.I.F. Bonds.

ARTICLE XII. PROJECT BUDGET; FINANCING

12.01 Project Budget. The Developer has furnished DPD with a cost analysis, attached hereto as Exhibit P, which details the total costs of the Industrial Project, both by line item and cost ("Project Budget"), which contains by way of supplement thereto and incorporation therein the Eligible Costs Budget referred to in Section 12.08, and the contemplated sources of funding the costs of the Industrial Project as between the City and the Developer. The

Developer shall contribute not less than the difference between the amount of the Project Budget and \$6,156,352.00 (which the Developer may satisfy by dedicating the net proceeds as provided in Section 4.05(a)(i) and item (e) of Article XX) to the cost of the Industrial Project ("Developer's Funds"). The Developer certifies to the City that the Project Budget covers all cost categories of work agreed to be undertaken by the Developer under this Agreement and is the Developer's best estimate of the costs included therein for such work as of the date of this Agreement (which in certain areas is predicated upon cost estimates received from third party consultants, such as for environmental remediation and for public infrastructure improvements, and which have been reviewed and evaluated by the Developer). Prior to the disbursement from time to time of City Funds, the Developer shall certify that the Project Budget remains true and correct as to the matters covered thereby or submit any revisions necessary to update the line items, costs and expenses for the Industrial Project. The City agrees that after the Industrial Property has been remediated the Developer may reallocate any savings from one category to another in the Project Budget if it can be demonstrated to the reasonable satisfaction of DPD that sufficient funds remain to permit each affected line item to be completed. However, the Developer may not reallocate any City Funds which would result in the City contributing more than the amount specified in Section 9.02 for the construction of the State's West Campus Building or would result in the payment of any costs of improving property currently owned or to be owned by the City from amounts other than City Funds, except as permitted by

Section 12.08. The Developer shall promptly deliver to DPD certified copies of any additional revisions to the Project Budget. The Developer shall have the continuing obligation to demonstrate to the City, to the City's reasonable satisfaction, that the full amount of the Developer's Funds are provided for in the form of financial resources previously spent and approved by the City and the availability of remaining required resources including net proceeds regarding Parcels in amounts that can reasonably be projected.

12.02 City Funds. The Developer and the City agree that it is anticipated that the City shall provide no more than \$6,156,352.00 of the proceeds of the Bonds (of which the sum of \$300,000.00 has already been disbursed pursuant to the terms of the Preliminary Redevelopment Agreement), plus up to an additional \$300,000.00 from Incremental Taxes (as defined in Section 12.06), to total up to \$6,456,352.00, being the total amount of the City Funds, for funding the cost of constructing, installing, and performing the activities necessary to complete the Industrial Project. The Developer agrees that if it receives the net proceeds from the sale of the Eli's Property to Eli's, the acquisition of which by Eli's has been funded by the City from the proceeds of the Bonds under a separate redevelopment agreement with Eli's, and the Developer subsequently regains title to the Eli's Property by virtue of the rescission of such transaction under circumstances where it has the right to retain such net proceeds pursuant to its purchase contract with Eli's, such net proceeds

(which by virtue of the applicable provisions of this Agreement are required to be segregated) shall constitute a part of the aforesaid \$6,156,352.00 of proceeds of Bonds portion of City Funds required to be provided by the City under this Agreement. The \$300,000.00 from Incremental Taxes shall be used solely to reimburse the Developer for excess environmental costs over those required to be funded by the City or otherwise included in the Project Budget as provided in Section 8.02(a), and shall not be disbursed to the Developer prior to the completion of the Industrial Project as certified by the City and shall be payable for such reimbursement on a first priority to the Developer from Incremental Taxes first deposited thereafter. Incremental Taxes on deposit in the Tax Allocation Fund (as defined in Section 12.06) prior to completion of the Industrial Project by the Developer are intended to be used by the City to pay the DPD fees referred to in Section 12.09, previously incurred obligations for infrastructure improvements undertaken by any City department or the Public Building Commission of Chicago ("PBC") benefitting the Industrial Property, and for such other purposes related to the Redevelopment Area as deemed appropriate in the sole discretion of the Commissioner. All other Incremental Taxes on deposit in the Tax Allocation Fund shall be allocated by the City, in its sole discretion, to repay Bond proceeds used for the Project, to satisfy debt service obligations on any subsequently issued T.I.F. Bonds, to widen that portion Narragansett Avenue bordering on the Redevelopment Area designated pursuant to the T.I.F. Ordinances (and any incidental costs related thereto), any costs of constructing the Ward Yard

beyond the amount of proceeds of the Bonds allocated therefor, and to the extent not previously paid from Incremental Taxes prior to completion of the Industrial Project, to pay for the aforesaid infrastructure improvements undertaken by any City department or the PBC and the DPD fee. The City hereby expresses its non-binding intention to use any further Incremental Taxes only for other aspects of redevelopment of the Industrial Property, including but not limited to, interest subsidies to End Users, and for any future development of the Phase 3 Property by the Developer as contemplated herein.

The Developer shall be solely responsible for payment of the amount by which the actual cost of constructing and installing the Industrial Project exceeds the amount of the City Funds available as aforesaid for payment of the costs of the T.I.F. Eligible Improvements that are part of the Industrial Project and shall hold the City harmless from any and all costs and expenses of completing the Industrial Project in excess of the City Funds.

12.03 Construction Escrow. The City Funds and Developer's Funds segregated pursuant to Section 4.05 to be used to finance the construction and installation of, and the performance of the activities necessary to complete, the T.I.F. Eligible Improvements and the Industrial Project, as the case may be, shall be disbursed pursuant to a construction escrow with Chicago Title and Trust Company, as construction escrowee ("Construction Escrow"), which will be similar to a conventional construction escrow as may be

appropriate to have join therein to the extent binding on any such parties, in their reasonable discretion. However, the Developer, at a minimum, must present the following documentation with each draw request:

(a) A request for disbursement duly executed by the Developer setting forth the following: detailed breakdown of the Eligible Costs Budget as defined in Section 12.08 for which the then current disbursement is being used to pay, showing the amount expended to date for such Eligible Costs (as defined in said Section 12.08) and the amount then due and payable;

(b) Such certification or statements as the Title Insurer may require concerning Developer's Funds that may have been disbursed by the Developer outside of the Construction Escrow but which could give rise to mechanics' lien claims;

(c) A sworn contractor's or subcontractor's statement, as applicable, and releases or waivers of lien through the date of the requested disbursement (or such lien waivers as may be delivered one draw in arrears if the Title Insurer agrees to insure title free of mechanics' lien claims through the date of requested disbursement through arrangements made by the Developer with the Title Insurer) from every contractor, subcontractor and material supplier who has done work or furnished materials for construction of that portion of the Industrial Project covered by such disbursement;

(d) A certificate from the Developer's architect or engineer, or other appropriate consultant, stating that to the best of such architect's or engineer's knowledge (i) the portion of the Industrial Project covered by such request for advance has been properly completed in accordance with the approved Public Improvements Plans and Specifications or contract documents relating to environmental remediation, as the case may be; and (ii) the construction contractors or the Developer, as applicable, are entitled to receive the payment requested.

12.04 Failure to Complete. If the Developer fails to complete the Industrial Project in accordance with the terms hereof, then the City shall have the right to provide written notice to the Developer of such failure, and the Developer shall have thirty (30) days in which to cure the defect specified in the notice. If the Developer fails to cure the defect within the thirty (30) day period, then the City shall have the right (but not the obligation) to complete the Industrial Project and to pay for the costs of the Industrial Project (including interest costs) out of the City Funds, as appropriate. In the event that the aggregate cost of completing the Industrial Project exceeds the amount of the City Funds made available pursuant to Section 12.02, the Developer shall reimburse the City immediately upon demand, for all costs and expenses incurred by the City to complete the Industrial Project in excess of the proceeds made available.

12.05 Reduction of Scope. If the cost of the Industrial Project exceeds the amount of the Project Budget, the Developer may request a change in the scope of the Industrial Project. The City may, but shall not be obligated to, confer with the Developer and the State, as deemed necessary or appropriate, to determine if such a change should be made. As between the City and the Developer, the decision to change the scope of any portion of the Industrial Project shall be in the sole discretion of the City and shall not reduce the Developer's obligations under this Agreement.

12.06 Creation of Tax Allocation Fund. The City has designated and established the Property and certain adjacent real property as the Chicago Read-Dunning Redevelopment Project Area as detailed in Recital H herein. The Tax Increment Act provides, in part, that the portion, if any, of such real estate taxes which is attributable to the increase in the equalized assessed value of each taxable parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each parcel in the project area ("Incremental Taxes") shall be allocated to, and when collected shall be paid to, the City Treasurer who shall deposit such Incremental Taxes in a special fund. Such a fund ("Tax Allocation Fund") has been created and is entitled the "1990 Chicago Read-Dunning Redevelopment Project Area Special Tax Allocation Fund". In the event that the City issues T.I.F. Bonds for the Redevelopment Area, the funds in the Tax Allocation Fund will be pledged as security for the T.I.F. Bonds.

12.07 T.I.F. Bonds. The Developer shall at the request of the City approve any amendments to this Agreement which are necessary or desirable in order for the City to issue its T.I.F. Bonds, the proceeds of which are intended to be used to reimburse the City for, and in redemption or defeasance of that portion of the Bonds used to fund, all amounts it has spent in accordance with this Agreement to pay for the T.I.F. Eligible Improvements or other Redevelopment Project Costs; provided such amendments do not impose additional costs, expense or obligations upon the Developer (except for costs and assistance described in the following paragraph).

The Developer shall provide reasonable assistance in connection with the City issuing and marketing of the T.I.F. Bonds including but not limited to providing descriptions of the Project, making necessary and suitable representations, providing information regarding its financial condition and otherwise assisting the City in preparing an offering statement or placement memorandum, provided, however, that the Developer by such undertaking shall be required only to utilize its own internal resources or those of its affiliates and shall not be obligated to incur out-of-pocket expenses to third parties, except that the Developer shall be required to pay for any attorneys' fees and accountants' fees that it may incur in connection with amending this Agreement or making any certifications necessary for the City to issue T.I.F. Bonds.

12.08 Eligible Costs Budget. The Developer has established a budget for the T.I.F. Eligible Improvements (the "Eligible Costs Budget") which totals the amount of City Funds and is a supplement to and incorporated as part of the Project Budget as provided for in Section 12.01, the costs for which ("Eligible Costs") the City and the Developer hereby agree the City Funds may be applied. The parties hereto agree that the proceeds of the Bonds are not to be used in a manner that would result, directly or indirectly, in the payment of Developer's Funds to the City or in the improvement of property currently owned or to be owned by the City with Developer's Funds. In this connection, the Developer certifies that (i) the allocation of anticipated costs between costs for improvements to the Industrial Property that is owned or to be owned by the City and costs for improvements to the Industrial Property that is not owned or to be owned by the City is as shown in the Schedule attached hereto as Exhibit Y and (ii) the Developer will not accept the conveyance of any interest in the Industrial Property from the City unless, as of the date of such conveyance and taking such conveyance into account, the aggregate amount of City Funds spent with respect to the Industrial Property not currently owned and not expected to be owned by the City equals or exceeds the aggregate amount of Developer's Funds spent with respect to the Industrial Property currently owned or expected to be owned by the City.

12.09 City Fees. It is acknowledged that DPD shall be paid a sum not to exceed \$161,538.00 from Incremental Taxes for payment

or reimbursement of costs incurred by the City in the administration and monitoring of the construction of the Project, which, to the extent permissible and appropriate, is being approved as part of the authorization of the City to enter into this Agreement.

**ARTICLE XIII. MEMORIAL PARK; RELOCATION AREA;
AND GRAVE RELOCATION**

13.01 Establishment of Memorial Park, Grant of Licenses and Easements. The State shall take or has already taken all steps necessary to establish a cemetery (the "Memorial Park") on the C-2 Memorial Park Property. The State shall retain title to the Memorial Park and shall at all times be responsible for maintenance of the Memorial Park and the Memorial Park Property. The State shall, at its sole expense, cause all graves on the Property which have been removed prior to the date hereof to be relocated to the C-2 Memorial Park Property or to such other location as required by applicable law and in accordance with the Protocols provided for in Section 13.02. The State agrees that within twenty-one (21) days after receipt of a written request from the Developer, it shall: (i) grant the Developer and its contractors any licenses on or over that portion of the C-1 Memorial Park Property which borders Oak Park Avenue on the east (the "Oak Park Avenue Lot") which the Developer deems necessary for construction of the utilities and any relocation of the Spur Road; (ii) grant such easements to

applicable public utilities on or over the Oak Park Avenue Lot which the applicable public utility deems necessary to service all or any portion of the Project; and (iii) execute any documents which the Developer deems necessary in connection with subdividing all or any portion of the Property or the Oak Park Avenue Lot.

13.02 Relocation of Graves Discovered by Developer During the Construction of the Project. The Developer, Eli's, the Residential Developer, the City, or any subsequent owner of the Property shall have the right (consistent with the requirements of applicable law and the Protocols referred to hereinafter) to relocate any human remains ("Graves") discovered on the Industrial Property and Residential Property during construction of the Project to the C-2 Memorial Park Property or, to the extent that space is unavailable in the C-2 Memorial Park Property, to that portion of the Phase 2 Property depicted on the Site Plan as Out-lot 12 and legally described in Exhibit A-13 ("Relocation Area"). The Developer shall have the right to determine the location of any Graves to be relocated to the Relocation Area. The State agrees that any deed transferring the Relocation Area (or any portion thereof) to any entity or individual shall contain a provision specifically allowing the City, the Developer, Eli's or the Residential Developer, and their successors and assigns, to relocate any Graves found by the City, the Developer, Eli's or Residential Developer, and their successors and assigns, to the C-2 Memorial Park Property or the Relocation Area. The City, the Developer and the State agree that the relocation of any such

Graves shall be accomplished in accordance with the protocols attached hereto as Exhibit Q (the "Protocols"). The State and the City agree and acknowledge that, to the extent either permitted by applicable law or acknowledged in the Protocols by the applicable State agency administering any such law, compliance with the Protocols shall be deemed to satisfy any ordinances, statutes, or regulations concerning the discovery and disposal of the Graves at the Property. Any such relocation that relates to the Industrial Property, as between the City and the Developer, shall be done at the Developer's sole cost and expense (or if and to the extent passed on by the Developer as a contractual undertaking of an End User who purchases an unimproved Parcel with the approval of the City, at the cost and expense of the End User of the Parcel upon which such Graves were discovered) and, except as set forth in Section 10.01, the Developer shall not be reimbursed for such costs from the proceeds of the Bonds or from the Incremental Taxes. Furthermore, the parties acknowledge and agree that neither the City nor the Developer shall be obligated to accept any conveyance of the Memorial Park Property.

13.03 Reconveyance of Property Containing Graves. If at any time during construction of any portion of the Industrial Project the Developer discovers Graves on a portion of the Property to which the Developer or the City has taken title, and the Developer determines after considering the location of the Graves that the cost to relocate such Graves in accordance with Section 13.02 hereof is more than \$10,000 per acre, the Developer may reconvey such property to the City by quitclaim deed, and the City may

reconvey such property by quitclaim deed to the State. Any portion of the Industrial Property that is reconveyed back to the State shall become part of the Memorial Park Property, and the Developer or the City shall grant the State any necessary easements for ingress and egress to that portion of the Property on, over and across portions any of the Property owned by the Developer or the City, as the case may be.

If any Graves are relocated to the C-2 Memorial Park Property or the Relocation Area after the City acquires title thereto, the City shall have the right to reconvey to the State that portion of the Relocation Area containing Graves, which property shall then become part of the Memorial Park.

If Graves are discovered on the Industrial Property in locations or in quantities which were not anticipated by the Developer, upon the Developer's request, the parties shall cooperate with each other and work in good faith to agree upon mutually satisfactory changes in the design and/or location of the Public Improvements, which shall be implemented by appropriate Change Order(s), if such changes will reduce the costs to relocate such Graves and will not materially, adversely affect the Industrial Project; provided that such agreement to cooperate shall in no way be construed as limiting the undertakings of the Developer generally provided for in Article XIII.

13.04 Development of the Relocation Area. The Relocation Area is a part of the Phase 2 Property which will be conveyed to the City pursuant to Article III of this Agreement. However, the City shall not be obligated to accept title to any portion of the Relocation Area to which Graves have been relocated. If the Commissioner makes a determination that under that certain Mixed Use Planned Development now pending before the City Council (the "PD"), a copy of which is attached hereto as Exhibit R, all or a portion of the Relocation Area is not needed by the Developer to accommodate the relocation of Graves, the Developer may acquire title to that portion of the Relocation Area and develop it in accordance with Section 4.05 hereof.

13.05 Conveyance of a Portion of the C-2 Memorial Park Property to State. The purchase contract between the Developer and the Residential Developer regarding the Residential Property shall contain a provision which requires the Residential Developer or its affiliate to convey, or cause to be conveyed, to the State the south portion of the C-2 Memorial Park Property which is legally described on Exhibit A-14 attached hereto upon the conveyance of the Residential Property to the Residential Developer, in exchange for which the State if the State so requires shall receive a covenant not to sue or a waiver of claims in a form and substance acceptable to the State.

ARTICLE XIV. PHASE 3 PROPERTY

14.01 Cooperation. The City, the Developer and the State shall cooperate with one another on an ongoing basis to determine the feasibility of proceeding with the development of the Phase 3 Property, including the possibility of obtaining additional T.I.F. or other public financing for such development. Notwithstanding anything contained in this Article XIV that may appear to be to the contrary, the City shall have no obligation to provide additional T.I.F. or other public financing for the development of the Phase 3 Property.

14.02 Developer's Rights and Obligations. The Developer shall have the right, but not the obligation, to develop the Phase 3 Property if it can demonstrate to the satisfaction of the City and the State that its development plan is feasible and that necessary funding has been committed therefor in accordance with a satisfactory budget. Subject to satisfying the terms and conditions set forth in this Article XIV, the Developer may exercise such right at any time by delivering notice to the City and the State (the "Phase 3 Exercise Notice") by not later than January 1, 1999. Within thirty (30) days after the Developer's delivery of the Phase 3 Exercise Notice, the Developer, the City and the State shall meet to discuss the Developer's plans for the development of the Phase 3 Property, and thereafter, the Developer, the City and the State shall cooperate with one another as is reasonably necessary to negotiate, prepare and finalize all

documents required in connection with the development of the Phase 3 Property (the "Phase 3 Documents"). The City, the Developer and the State hereby agree that, to the extent appropriate and applicable, the terms and provisions of this Agreement relating to the development of the Phase 1 Property and the Phase 2 Property shall provide the framework for reaching an agreement for the development of the Phase 3 Property and shall be incorporated into the Phase 3 Documents; provided, however, that notwithstanding the foregoing the City shall not be deemed in any way to have agreed to any aspects of the funding of the development of the Phase 3 Property but agrees that the Phase 3 Property shall be conveyed as declared surplus property from the State to the City and from the City to the Developer in the manner set forth in this Agreement with respect to the Phase 1 Property and the Phase 2 Property, except that the City in acting as conduit in the chain of title shall not be required to hold title for a period of time but may elect to convey title to the Developer promptly upon receipt of title to any of the Phase 3 Property. The City's obligations described in Section 14.01 above and this Section 14.02 (including but not limited to cooperating with respect to the feasibility of developing the Phase 3 Property, participating in meetings, finalizing the Phase 3 Documents for development of the Phase 3 Property and acting as a conduit in the chain of title) shall in no way be affected or diminished as a result of the City's failure, inability or refusal to provide additional T.I.F. or other public funding for the development of the Phase 3 Property, it being

understood that Developer may arrange for alternative funding in such event.

14.03 Environmental Remediation and Removal of Improvements from the Phase 3 Property. Notwithstanding anything contained in this Article XIV to the contrary, unless subsequently agreed otherwise, neither the State nor the Developer shall proceed with negotiating the Phase 3 Documents unless the State can agree therein that the State shall provide the environmental remediation for, and shall demolish and remove any improvements, equipment, furnishings and material then located on, the Phase 3 Property or pay the combined cost thereof to the Developer, such cost being estimated to be \$3,464,000.00.

ARTICLE XV. ASSISTANCE FROM DPD

The City agrees that during the construction period of any portion of the Industrial Project, it will identify an individual from DPD ("DPD Representative") to assist the Developer in obtaining the necessary permits or approvals from any other department of the City. The DPD Representative shall be a person who is familiar with the procedures and personnel of the other City departments and thus will be able to effectively assist the Developer in obtaining any necessary permits or approvals. The DPD Representative shall act with diligence and will seek to cause to be expedited as much as possible the processing and issuance of

necessary permits and approvals. The DPD Representative shall be designated upon execution of this Agreement and may be changed from time to time at DPD's sole discretion upon notice to the Developer.

ARTICLE XVI. PAYMENT AND PERFORMANCE BOND

The Developer shall cause each general or prime contractor constructing or performing work with respect to the Public Improvements and each environmental contractor performing the environmental remediation on the Industrial Property to be bonded for its performance of and payment for the specific work to be completed in accordance with its contract by sureties having a AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. The City shall be named as obligee or additional obligee on the payment and performance bonds.

ARTICLE XVII. REZONING AND SUBDIVIDING

17.01 Rezoning. The parties acknowledge that the Developer has submitted to the City the appropriate application and supporting documentation necessary to have the Property rezoned as a mixed-use planned development. The City agrees to take all reasonable steps in cooperation with and in support of the Developer, subject to the approval of the City Council, to rezone the Property as a Mixed Use Planned Development, being the PD

referred to in Section 13.04 and a copy of which is attached hereto as Exhibit R.

17.02 Subdividing. Each phase of the Industrial Property may be subdivided after the City acquires title thereto. The Developer, at its sole cost and expense, shall submit the appropriate plat of subdivision to the City and other necessary governmental agencies for approval. The City shall have one hundred-twenty (120) days in which to approve or reject the plat of subdivision.

ARTICLE XVIII. CERTAIN ADDITIONAL OBLIGATIONS OF THE CITY

18.01 Interest Subsidy and Other Payments to End Users. Subject to the Tax Increment Act, the City may, but need not, provide interest subsidy payments and payments for other Redevelopment Project Costs to those End Users who take title to any portion of the Industrial Property from the Developer. All interest subsidies and payments for other Redevelopment Project Costs must be authorized and approved by the City Council and the Commissioner.

18.02 Issue Building Permits. The City agrees to issue all necessary permits in accordance with its normal and customary practices and procedures for the various improvements in the Project as soon as reasonably possible after the submission of

final construction drawings for any such improvements in conformance with the City's building codes. The City acknowledges that as part of the permitting process DPD will seek to facilitate the issuance of foundation permits, subject to normal and customary requirements to the issuance thereof, in advance of full building permits with respect to the Eli's Property and other Parcels within the Industrial Project prior to completion of the Public Improvements and subdivision of the Industrial Property. The Developer shall be obligated to pay only those fees that are assessed by the City on a uniform basis throughout the City and are of general applicability to other similar property in the City. With regard to the construction of the State's West Campus Building, the Developer need not pay any building permit fees but shall comply with the City's building codes.

18.03 Construction of Wright College Road. The City agrees to require Wright College to perform any actions required under Wright College's PD 449. Upon completion of Wright College Road to City standard, the City agrees to accept the dedication thereof.

18.04 Remediation, Demolition, and Construction on City Property. The City agrees that the Developer and its employees, agents and contractors may enter onto City owned portions of the Property in order to remediate the Industrial Property, demolish existing structures, construct the Public Improvements thereon and otherwise complete the Industrial Project .

18.05 Certain Undertakings of the City Regarding Water

Improvements. If the Developer procures any necessary easements therefor to the extent to be installed within areas not owned by the City or otherwise within a dedicated public right of way as relates to item (b) below and if the City, in using its best efforts, is able to procure any necessary easement along the Northern boundary of the existing Latvian School parcel with respect to the applicable portion of the water main contemplated in item (a) below if the same cannot be included within any unimproved portion along the South side of the dedicated right-of-way for W. Montrose Avenue, the City's Department of Water ("DOW") shall design and construct the following described improvements in furtherance of the Industrial Project:

(a) A new 12-inch water main approximately 950 feet in length along the South side of Montrose Avenue from the existing Wright College Roadway to the contemplated entrance to the Industrial Property, in the location depicted on the Site Plan attached hereto as Exhibit B. Said water main shall be completed no later than the date that the Developer has completed the Public Improvements. The City shall bear all costs of installing such water main out of other than City Funds or the Project Budget for the portion of approximately 450 lineal feet between such existing Wright College Roadway to the west property line of the Latvian School parcel (being that portion along the North boundary line of the existing Latvian School parcel) as depicted on said Site Plan, and the City and the Developer shall share one-half each the costs

of installing the portion of approximately 500 lineal feet continuing west to the location of the contemplated entrance to the Industrial Property (such one-half share being estimated to be \$42,500.00 based on the estimated cost of \$170.00 per lineal foot, with the City's share to be paid out of other than City Funds or the Project Budget and only the Developer's share to be paid out of City Funds or the Project Budget); and

(b) A new 12-inch water main approximately 1,250 feet in length along the east side of undedicated Oak Park Avenue from the existing connection at the intersection of Oak Park Avenue and Irving Park Road to the intersection of Oak Park Avenue and the Spur Road (as finally located), in the location depicted on said Site Plan. Said water main shall be completed no later than the earlier of (i) installation of a water main by the Developer to serve the Phase 3 Property or (ii) the date that Developer has completed the relocation of the Spur Road. The City shall bear all costs of installing such water main from funds other than City Funds or the Project Budget.

The water mains described above shall be installed to the same specifications and quality as those water mains being installed as part of the Public Improvements. These matters, and matters related to the installation of other water improvements for the Redevelopment Area, are confirmed in that certain letter dated March 18, 1992 from DOW to Stephen M. Park of The Alter Group, Ltd.

ARTICLE XIX. CERTAIN ADDITIONAL OBLIGATIONS OF THE STATE

19.01 Remediation, Demolition and Construction on State Property. The State agrees that the Developer and its employees, agents and contractors may enter onto State property in order to perform remediation, demolish existing structures and construct portions of the Project and the State's West Campus Building on State owned property, including the construction of utilities and roadways and connections to existing utilities and roadways, provided that the Developer and its contractors, agents and employees do not disrupt DMHDD's operations on the property in question, or the Developer notifies DMHDD in advance and works out a reasonable and satisfactory means of addressing any disruption whenever it appears that some disruption may occur. The State agrees to consent to and execute any easements, dedications, licenses and other documents that may be necessary in connection with such remediation, demolition and construction. Accordingly, subject to such condition, the State hereby grants to the Developer, its successors and assigns, and their respective agents and employees, a license on, over, under and across any and all portions of the redevelopment area for the Project owned by the State to perform such remediation, demolition and construction.

19.02 State Agent. In the absence of specific authority herein or otherwise as required by law, the State appoints Thomas Gainer, Chief Legal Counsel of DCCA, whose address is 520 East Adams, Springfield, Illinois 62701, to act and sign (or cause to be

signed by an authorized signatory) all documents on behalf of the State in connection with this Agreement.

19.03 P.A. 84-460. The State shall induce the Title Insurer to either not raise P.A. 84-460, effective September 17, 1985, a copy of which is attached hereto as Exhibit S, as a title exception, or to insure over the matter.

19.04 Wetlands. The State hereby certifies to the City and the Developer that the execution or performance of this Agreement by the State does not violate any state laws or regulations regarding wetlands.

ARTICLE XX. CERTAIN ADDITIONAL OBLIGATIONS OF THE DEVELOPER

The following shall constitute certain additional obligations, responsibilities and undertakings of the Developer:

(a) Upon execution of this Agreement, the Developer shall provide to the City satisfactory evidence that all necessary governmental bodies, including the Illinois Department of Transportation (IDOT), have evidenced their approvals of plans and specifications (which in the instance of IDOT shall consist of a Intersection Design Study or so-called IDS) that will lead to the issuance of all required permits on the basis of submissions of applications therefor and other submissions that are of a nature

that cannot result in denial of the permits regarding the construction of a roadway which will allow access to the Industrial Property from the intersection of West Montrose Avenue and Forest Preserve Drive;

(b) The Developer shall be responsible for all planning, engineering, testing, surveying and traffic and other studies reasonably necessary for the construction of the Industrial Project, at Developer's sole cost and expense, except to the extent payable from City Funds as part of Eligible Costs in the Eligible Costs Budget;

(c) The Developer shall prepare all final platting and construction documents relating to the Industrial Project in accordance with the terms of this Agreement, at the Developer's sole cost and expense, except to the extent payable from City Funds as part of Eligible Costs in the Eligible Costs Budget;

(d) In compliance with all City ordinances and codes, the Developer shall be responsible for all demolition, construction of infrastructure, grading, landscaping, and installation of utilities, as required pursuant to the West Campus Plans and Specifications and the Public Improvements Plans and Specifications, Redevelopment Plan, T.I.F. Ordinances, Bond Ordinance and this Agreement for each stage of the T.I.F. Eligible Improvements and construction of temporary and permanent utility services for existing DMHDD Buildings, and all temporary

and permanent fencing reasonably required to separate the existing DMHDD facilities on the Property from the Project activities during each phase of development; provided, however, that the Developer shall not undertake, or cause to be undertaken, the demolition, removal or relocation of the fence existing on the Phase 3 Property as of the date hereof;

(e) Subject to receipt of an opinion from bond counsel, satisfactory in form and content to the City that such requirement or permitted course of action will not adversely affect the tax-exempt status of the Bonds and any subsequently issued applicable T.I.F. Bonds, the Developer shall deposit into a separate account any net proceeds, after normal and customary closing costs including broker commissions, realized from the sales of the Eli's Property to Eli's (but not to a third party following a reconveyance by Eli's except as necessary or appropriate to segregate or identify adequate Developer's Funds) and the Residential Property and may deposit the net proceeds with respect to any other Parcel of the Industrial Property necessary to satisfy the requirements imposed on the Developer to segregate or identify adequate Developer's Funds for the Industrial Project; and the Developer further agrees to apply the proceeds received from the sale of the Residential Property as required by the provisions of Section 9.02.

(f) The Developer shall be responsible for all sales, leasing, marketing and administration in connection with the Industrial Project;

(g) The Developer shall prepare and record, subject to the approval of DPD (which approval shall not be unreasonably withheld or delayed), restrictive covenants for the redeveloped Industrial Property reflecting this Agreement and consistent with the planned development of the Industrial Property as a first-class business park;

(h) The Developer shall designate in writing to the City and the State a representative or representatives (who may be replaced upon notice by the Developer to the City and State) to act for the Developer in all respects for the implementation of this Agreement. Initially, such persons shall be Randolph F. Thomas and Stephen M. Park;

(i) The Developer and all contractors and subcontractors that perform work on the site on behalf of the Developer for the Industrial Project undertaken pursuant to this Agreement shall comply with the minimum percentage of total worker hours performed by actual residents of the City specified in Section 2-92-330 of the Municipal Code of Chicago and shall otherwise comply with the requirements of said Section. The requirements of said Section 2-92-330 shall be included in all contracts and subcontracts entered into by the Developer or its contractors related to work performed on the site on the Industrial Project. In addition to any other reporting and records maintenance requirements imposed by said Section 2-92-330, the Developer shall submit monthly reports to DPD detailing its compliance with the terms hereof;

(j) Prior to commencing any construction which requires barricades, the Developer shall install such barricades in compliance with all applicable federal, state and local laws, ordinances and regulations. The City retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades;

(k) The Developer shall erect a sign of a size and style approved by DPD and the State in a conspicuous location on the Industrial Property prior to the construction period of the Project, indicating the financial assistance, cooperation and involvement of the City and State;

(l) Upon the construction of the underground utilities by the Developer in accordance with the Public Improvements Plans and Specifications, the Developer shall dedicate such utilities to the City. The City agrees, subject to City Council approval, that upon compliance by the Developer with the applicable construction, inspection and legal requirements, it will accept title (in one or more transfers) to the water, sanitary and storm sewer lines to be constructed on the Property; and

(m) The Developer shall obtain all necessary permits under, or otherwise comply with, any requirements of applicable federal laws regarding any wetlands on the Industrial Property.

**ARTICLE XXI. CERTAIN DEVELOPER COVENANTS,
REPRESENTATIONS AND WARRANTIES**

21.01 General Representations, Covenants and Warranties.

The Developer represents, warrants and covenants to the City and the State as follows:

(a) The Developer shall be governed by, adhere to and obey any and all applicable federal, state and local laws, statutes, ordinances, rules, regulations and executive orders applicable to the Industrial Project and the Industrial Property as may be in effect from time to time.

(b) The Developer shall develop and construct the Industrial Project in accordance with this Agreement.

(c) (i) The Developer is a limited partnership duly organized and validly existing under the laws of the State of Illinois; (ii) the Developer has the right and power and is authorized to enter into, execute, deliver and perform this Agreement; (iii) the execution, delivery and performance by the Developer of this Agreement shall not, by the lapse of time, the giving of notice or otherwise, constitute a violation of any applicable law or breach of any provision contained in the Developer's limited partnership agreement, or any instrument or document to which Developer is now a party or by which it is bound; (iv) the Developer is now solvent and able to pay its debts as they mature; (v) there are currently

no actions at law or similar proceedings which are pending or, to the best of Developer's knowledge, threatened against the Developer which might result in any material and adverse change in the Developer's financial condition, or materially affect the Developer's assets as of the date of this Agreement; (vi) the Developer has obtained or will obtain all government permits, certificates, consents (including, without limitation, appropriate environmental clearances and approvals) necessary to construct the Industrial Project as contemplated in this Agreement; (vii) no default has been declared with respect to any indenture, loan agreement, mortgage, deed or other similar agreement relating to the borrowing of monies to which the Developer is a party or by which it is bound; (viii) the financial materials furnished to the City by or on behalf of the Developer are complete, correct and accurately present the assets, liabilities, results of operations and total financial condition of the Developer on such date.

(d) Subject to the Developer's right to contest as provided herein, the Developer shall pay promptly when due all Charges arising or incurred with respect to any portion of the Project during the date the Developer owns any portion of the Property. As used herein, the term "Charges" shall mean all national, federal, state, county, city, municipal and/or other governmental (or any instrumentality, division, agency, body or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances or non-governmental claims or liens upon and/or relating to the Project.

(e) The Developer shall not, without the prior written consent of the City (which consent may be withheld in the City's sole discretion), suffer or permit as a result of the Developer's conduct a lien, claim or encumbrance upon all or any portion of the Industrial Property not owned by the Developer, its successors or assigns, including any improvements thereon, provided that this shall not be construed to require the City's consent to any such liens, claims or encumbrances otherwise allowed pursuant to the terms of this Agreement. Notwithstanding anything else to the contrary in this Agreement, the Developer shall not be required to obtain the release of any liens, claims or encumbrances (including mechanic's and materialmen's liens) on the Property or pay any Charges so long as the Developer is contesting the validity of any such liens, claims, encumbrances or Charges in good faith and the Developer has taken reasonable steps to protect the portion of the Property affected thereby from forfeiture by bonding, endorsement to the title policy by the Title Insurer or other appropriate means. This subsection of Section 21.01 shall not be interpreted to require that the Developer furnish "no lien" contracts.

(f) The information contained in the Redevelopment Plan regarding the Redevelopment Area, the Project and the Property, to the best of the Developer's knowledge, contains no inaccuracies or omissions.

(g) The Developer agrees to pay or cause to be paid when due all real estate taxes assessed in connection with every portion of the Property to which it has title.

(h) Any and all proceeds of the Bonds constituting City Funds shall be used solely to pay for construction of the T.I.F. Eligible Improvements and related costs as provided for in this Agreement.

(i) All warranties, representations and covenants of the Developer contained in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, shall be deemed remade in connection with each disbursement of City Funds as a condition to the disbursement thereof (which the City may require be evidenced in a certificate from the Developer), and shall survive the execution, delivery and acceptance hereof by the parties hereto.

(j) The Developer shall immediately notify DPD of all events or actions which may materially affect Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents or agreements.

(k) That neither it nor any of its principals is in default on an education loan as provided in the Educational Loan Default Act, 5 ILCS 385/0.01 et seq. (1992).

(l) That neither it nor any of its principals has been barred from entering into this Agreement as a result of a violation of Section 33E-3 or 33E-4 of the Illinois Criminal Code, 720 ILCS 5/33E-3 and 33E-4 (1992).

(m) That neither it nor any of its principals is barred from entering into this Agreement under Section 10.1 of the Illinois Purchasing Act, 30 ILCS 505/1 et seq. (1992), as amended.

21.02 Conflict of Interest. The Developer warrants and represents that no member, official or employee of the City has any personal interest, direct or indirect, in the Developer's business; nor shall any such member, official or employee participate in any decision relating to the Developer's business which affects his/her personal interests or the interests of any corporation, partnership or association in which he/she is directly interested. Moreover, the Developer further agrees that no member, official, or employee of the City or the State shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the City or State for any amount which may become due to Developer or any successor or on any obligation under the terms of this Agreement. The Developer further represents that to the best of the Developer's knowledge, no member, officer or employee of the City, or its designees, or agents, no consultant, no member of the governing body of the City and no other public official of the City who exercises or who has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision-making process or gain insider information with regard to the Project, has any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project or in any activity, or benefit therefrom, which is

part of the Project at any time during or after such person's tenure. The Developer shall require all contractors and subcontractors performing services or supplying materials to or on behalf of the Developer for the Industrial Project and the construction of the State's West Campus Building to make appropriate representations to that effect in their construction contracts and subcontracts.

21.03 Developer's Obligations. The Developer shall not enter into any transaction which would materially and adversely affect the Developer's ability to perform its obligations hereunder.

21.04 Financial Statements. The Developer shall maintain and provide to DPD audited annual financial statements prepared in accordance with generally accepted accounting principles and practices consistently maintained throughout the appropriate fiscal year periods ending December 31, 1994 and every December 31st thereafter. In addition, upon DPD's request, but no more frequently than quarterly, the Developer shall submit unaudited statements of the Developer's financial condition signed by a general partner of the Developer. Developer shall also submit statements of Developer's employment profile upon the City's request.

ARTICLE XXII. CITY'S REPRESENTATION

The City represents and warrants that it has the authority under its home rule powers to execute, deliver and perform the terms and obligations of this Agreement, including, without limitation, the right, power and authority to issue and sell Bonds for the payment of the costs pertaining to the T.I.F. Eligible Improvements.

ARTICLE XXIII. STATE'S REPRESENTATIONS AND WARRANTIES

23.01 Authority. DCCA, on behalf of the State, represents and warrants that it has the authority to execute, deliver and perform the terms and obligations of this Agreement.

23.02 Hazardous Material. The State hereby represents and warrants to the City, the Developer and the Residential Developer (as a third party beneficiary hereof) that to the best of its knowledge except as set forth in the Environmental Assessment or otherwise as indicated in Exhibit T attached hereto: (i) the Property (including underlying groundwater), and the use and operation thereof, have been and are currently in compliance with all applicable laws, ordinances, requirements and regulations (including consent decrees and administrative orders) relating to public health and safety and protection of the environment, including those statutes, laws, regulations and ordinances

identified below, all as amended and modified from time to time (collectively, "Environmental Laws"); (ii) all Hazardous Material (as defined below) generated or handled on the Property has been disposed of in a lawful manner; (iii) no generation, manufacture, storage, treatment, transportation or disposal of Hazardous Material has occurred or is occurring on or from the Property; (iv) no environmental or public health or safety hazards currently exist with respect to the Property or the business or operations conducted thereon; (v) no underground storage tanks (including petroleum storage tanks) are present on or under the Property; (vi) no polychlorinated biphenyls are present on or under the Property; and (vii) there have been no past, and there are no pending or threatened, actions or proceedings by any governmental agency or any other entity regarding public health risks or the environmental condition of the Property, or the disposal or presence of Hazardous Material, or regarding any Environmental Laws or liens or governmental actions, notices of violations, notices of noncompliance or other proceedings of any kind that could impair the value of the Property. For purposes of this Agreement, "Hazardous Material" means: (i) "hazardous substances", as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq.; the Environmental Protection Act, 415 ILCS 5/1 et seq. (1992); (ii) "hazardous wastes", as defined by the Resource Conservation and Recovery Act, 42 U.S.C. §6902 et seq.; (iii) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials, or substances within the meaning or any other applicable federal, state or local

law, regulation, ordinance, or requirement (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, all as amended or hereafter amended; (iv) more than 100 gallons of crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); (v) any radioactive material, including any source, special nuclear or by-product material as defined at 42 U.S.C. §2011 et seq., as amended or hereafter amended; and (vi) asbestos in any form or conditions.

23.03 State's Primary Liability. The State acknowledges that it has owned the Property for many decades and that as the owner of the Property it is solely responsible and will remain solely responsible for the environmental condition of the Property resulting from acts, failures to act and circumstances that occurred or occur prior to or during the time of the State's ownership of the Property. The State further acknowledges and agrees that it will continue to retain sole liability for the aforesaid environmental condition of the Property existing as of the date the State conveys the Property, or any failure on its part to comply with Environmental Laws, notwithstanding any conveyances of all or any part of the Property pursuant to this Agreement. The City, the Developer, and each of New Horizons, Eli's and the Residential Developer as a third party beneficiary, and their

respective successors and assigns, shall have the right to seek redress against the State for any and all losses, liabilities, obligations, penalties, claims, fines, litigation, demands, defenses, costs, judgments, suits, proceedings, damages (including consequential, punitive and exemplary damages), disbursements or expenses of any kind or nature whatsoever (including attorneys' fees) which may at any time be imposed upon, incurred by or asserted or awarded against the City, the Developer, New Horizons, Eli's or the Residential Developer, and their respective successors and assigns, in connection with or arising from any such environmental condition of the Property, beyond the monetary undertakings and obligations of such parties regarding environmental remediation pursuant to this Agreement.

23.04 Future Contamination. In addition to and not in limitation of the State's covenants and obligations set forth above in this Article XXIII, if it shall be necessary for the State to cause or permit any Hazardous Materials to be generated, manufactured, stored, treated, transported or disposed of on, under, to or from those portions of the Property which shall hereafter continue to be owned by the State from time to time, such shall be used, stored and disposed of in compliance with all Environmental Laws.

ARTICLE XXIV. PERFORMANCE, DEFAULT AND REMEDIES

24.01 Time of the Essence. Time is of the essence of this Agreement.

24.02 Permitted Delays. For the purposes of any of the provisions of this Agreement, neither the City, the State nor the Developer, nor any assignee or successor in interest, shall be considered in breach of, or default in, its obligations under this Agreement in the event of any delay caused by force majeure matters consisting of damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather condition such as, by way of illustration, but not limitation, severe rain storms or below freezing temperatures of abnormal degree or quantity or of an abnormal duration, tornadoes or cyclones and other like events or conditions beyond the reasonable control of the party affected which in fact interfere with the ability of such party to discharge its respective obligations hereunder; nor shall the City, the State or the Developer, nor any assignee or successor in interest to the City, the State or the Developer, be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by litigation or proceedings challenging the authority or right of the City to act under the Redevelopment Plan, the T.I.F. Ordinances or the Bond Ordinance, or the State or the City to perform under this Agreement. All of the foregoing are herein referred to as "Permitted Delays". The time for the performance of the obligations of a party shall be extended

for the period of the Permitted Delay only if the party seeking the extension gives notice in writing to the other parties within thirty (30) days after the beginning of such Permitted Delay.

24.03 Events of Default by the State. Subject to the notice and cure provisions set forth in Section 24.07 below, the failure of the State to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the State under this Agreement or any related agreement shall constitute an Event of Default by the State.

24.04 Events of Default by the City. Subject to the notice and cure provisions set forth in Section 24.07 below, the failure of the City to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the City under this Agreement or any related agreement shall constitute an Event of Default by the City.

24.05 Events of Default by the Developer. Subject to the notice and cure provisions set forth in Section 24.07 below, the following events shall constitute Events of Default by the Developer:

(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 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 as a result of an act or omission of the Developer, any lien or other encumbrance upon any portion of the Property not owned by the Developer, including any fixtures now or hereafter attached thereto, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that such Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's debts, whether under the United States Bankruptcy Code or under any other state or federal law, now

or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default if such proceedings are dismissed within thirty (30) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for the Developer, for any substantial part of the Developer's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of the Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default if such appointment is not revoked or such proceedings are dismissed within thirty (30) 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 thirty (30) days after such entry without a stay of enforcement or execution;

(h) the dissolution of the Developer, or the dissolution of any entity which owns a material interest in the Developer, provided that such dissolution has a material adverse effect on the Developer; or

(i) 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 person who owns a material interest in the Developer, for any crime.

For the purposes of Sections 24.05(h) and (i) above, a person or entity with a material interest in the Developer shall be one having an interest in excess of thirty-three percent (33%); and for the purposes of Sections 24.05(e), (f), (g), (h) and (i) such events giving rise to Events of Default shall also have application to the general partner(s) of the Developer.

24.06 Remedies. Upon the occurrence of an Event of Default, the aggrieved party may terminate this Agreement and all related agreements, and may institute a proceeding in any court of competent jurisdiction to compel specific performance by the party in default of its obligations, covenants or agreements. If the Developer is the party in default, the City, in addition to any other remedies set forth in this Agreement, may suspend disbursement of the City Funds.

24.07 Curative Period. In the event that a party has failed to perform a covenant which such party 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 such party shall have failed to cure such default within sixty (60) days of its receipt of a written notice from the aggrieved party specifying the nature of the default; provided, however, with respect to those defaults which are not capable of being cured within sixty (60) days, the defaulting party shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the default within such sixty (60) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

24.08 No Waiver by Delay. Any delay by any party hereto in instituting or prosecuting any actions or proceedings or in otherwise exercising its rights shall not operate as a waiver of such rights or deprive it of or limit such rights in any way. No waiver in fact made by any party hereto with respect to any specific default by any other party should be considered or treated as a waiver of the rights of the non-defaulting party with respect to any other defaults by any other party or with respect to the particular default except to the extent specifically waived in writing.

ARTICLE XXIV. CONDITIONAL PROVISIONS

The provisions set forth in Exhibit U attached hereto, in their entirety or selectively, will become effective at the sole option of the City and upon the City's receipt of an opinion from

nationally recognized bond counsel that the effectiveness of these provisions will not adversely affect the tax-exempt status of the Bonds or the T.I.F. Bonds. In the event that the City exercises its option to make any such provisions on Exhibit U effective, it shall notify the Developer in accordance with Section 30.10, below.

ARTICLE XXVI. USE RESTRICTIONS; NON-DISCRIMINATION

The Developer agrees for itself, its successors and assigns, and every successor in interest to all or any portion of the Industrial Property to which the Developer takes title, that Developer and its successors and assigns shall:

- A. devote the Property to, and only to, the uses specified in this Agreement;
- B. comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1992), as amended and any rules and regulations promulgated in accordance therewith, including, but not limited to the Equal Employment Opportunity Clause, ILL. ADMIN. CODE tit. 5, § 570 Appendix A (19__). Furthermore, the Developer shall comply with the Public Works Employment Discrimination Act, 775 ILCS 10/1 et seq. (1992), as amended, and the Prevailing Wage Act, 820 ILCS 130/0.01 et seq. (1992), as amended.

- C. comply with the Chicago Human Rights Ordinance, ch. 2-160 of the Chicago Municipal Code (1990), as amended. Further, the Developer shall furnish or shall cause each of its contractor(s) and subcontractor(s) to furnish such reports and information as requested by the Chicago Commission on Human Relations;
- D. comply with The Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq. (1981), as amended. Attention is called to: Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. § 2000(e) note, as amended by Exec. Order No. 11,375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12,086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. §6101-6106 (1981); Rehabilitation Act of 1973, 29 U.S.C. §793-794 (1981); Americans with Disabilities Act, P.L. 101-596; and 41 C.F.R. Part 60 et seq. (1990); and
- E. provide that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, or ancestry, age, mental or physical disability, sexual orientation, marital status, parental status, military discharge, or source of income on all solicitation or advertisements for employees placed by or on behalf of the Developer.

The Developer agrees that Paragraphs (B), (C), (D), and (E) above will be incorporated in all agreements entered into with any suppliers of materials, furnishers of services, subcontractors of any tier, and labor organizations which furnish skilled, unskilled and craft union skilled labor, or which may provide any such materials, labor or services in connection with this Agreement.

It is intended and agreed that the covenants provided in Sections (B), (C), (D) and (E) shall remain effective without any time limitation, provided, that such agreements and covenants shall be binding on the Developer, each successor in interest to the Property, and each party in possession or occupancy, respectively, only for such period as such successor or party shall have title to or an interest in, or possession or occupancy of the Property. The City, and not the Developer, shall enforce each of the covenants in this Article XXVI against Developer's successors and assigns and any successor in interest to all or any portion of the Industrial Property.

**ARTICLE XXVII. MINORITY BUSINESS ENTERPRISES:
WOMEN'S BUSINESS ENTERPRISES**

The Developer agrees, and shall contractually obligate and cause its general contractors, subcontractors, prime contractors, construction managers or affiliates to agree, that the Developer shall expend, or cause to be expended, at least the following percentages of the hard costs set forth in the Project Budget for

contract participation by Minority Business Enterprises ("MBEs") or Women's Business Enterprises ("WBEs") in the Industrial Project:

MBE Percentage

WBE Percentage

25%

5%

This commitment may be met by the Developer's status as an MBE or WBE, or by a joint venture with one or more MBEs or WBEs (to the extent of the MBE or WBE participation in such joint venture), by using an MBE or WBE as general contractor, by subcontracting or causing the general contractor to subcontract a portion of the work to one or more MBEs or WBEs, by the purchase of materials used in the Industrial Project from one or more MBEs or WBEs, or by the indirect participation of MBEs or WBEs in other aspects of the Developer's business or by any combination of the foregoing. Those businesses that constitute both an MBE and WBE shall not be credited more than once against the Developer's MBE or WBE commitment. The Developer 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 Industrial Project. The City may require the Developer to demonstrate the specific efforts undertaken to involve MBEs and WBEs directly in the Project. Upon the written request of DPD, periodic reports shall be made by the Developer to DPD on all efforts made to achieve compliance with the foregoing provisions. Such reports shall include the name and business address of each MBE and WBE solicited by the Developer to work as general contractor or subcontractor and the responses received to such solicitation, the name and business

address of each MBE and WBE actually involved in the Industrial Project, a description of the work performed and or products or services supplied, the date and amount of each expenditure and such other information as may assist the City in determining the Developer's compliance with the foregoing provisions, and the status of any MBE or WBE performing any contract in connection with the Industrial Project. The City shall have access to the Developer's books and records, including without limitation, payroll records, tax returns, and records and books of account, on five (5) days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation. Upon the written request of DPD, periodic reports shall be made to DPD regarding the efforts made to achieve compliance with the provisions of this Article XXVII. Notwithstanding anything contained in this Article or elsewhere in this Agreement that may appear to be to the contrary, the provisions of this Article XXVII shall not apply to the Residential Property or New Horizons Property or to any End User or its successor or assign.

ARTICLE XXVIII. INSURANCE

28.01 Categories. The Developer, at its sole cost and expense, shall procure and maintain, or cause to be procured and maintained, the types of insurance specified below, with insurance companies authorized to do business in the State of Illinois

covering all operations under this Agreement, when performed by the Developer or its contractors, subcontractors or affiliates.

(a) Remediation. Prior to the commencement of any remediation-related activity on the Industrial Property, the Developer shall procure and maintain, or cause to be procured and maintained, the following kinds and amounts of insurance:

(i) Workers' Compensation and Occupational Disease Insurance. Workers' Compensation and Occupational Disease Insurance, in statutory amounts, covering all employees who are to provide a service in connection with the Industrial Project. Employer's liability coverage with limits of not less than \$100,000 for each accident or illness shall be included.

(ii) Commercial Liability Insurance (Primary and Umbrella). Commercial Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence, combined single limit, for bodily injury, personal injury, and property damage liability. Products/completed operations, explosion, collapse, underground, independent contractors, broad form property damage, pollution and contractual liability coverage are to be included. The City shall be named as an additional insured.

(iii) Automobile Liability Insurance. When any motor vehicles are used in connection with work to be performed, Automobile Liability Insurance with limits of not less than

\$1,000,000 per occurrence combined single limit, for bodily injury and property damage. The City shall be named as an additional insured.

(iv) The Developer shall require the environmental contractor(s) to 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 the Federal Regulations, Protection of the Environment, and any other federal state, or local regulations concerning the removal and transport of Hazardous Materials.

(b) Construction. Prior to the commencement of the construction of the State's West Campus Building and the Public Improvements, the Developer shall procure and maintain, or cause to be procured and maintained, the following kinds and amounts of insurance:

(i) Workers' Compensation and Occupational Disease Insurance. Workers' Compensation and Occupational Disease Insurance, in statutory amounts, covering all employees who are to provide a service in connection with the Industrial Project. Employer's liability coverage with limits of not less than \$500,000 for each accident or illness shall be included.

(ii) Commercial Liability Insurance (Primary and Umbrella). Commercial Liability Insurance or equivalent with limits of not less than \$3,000,000 per occurrence, combined single limit, for bodily injury, personal injury, and property damage liability. Products/completed operations, explosion, collapse, underground, independent contractors, broad form property damage, and contractual liability coverages are to be included. The City shall be named as an additional insured.

(iii) Automobile Liability Insurance. When any motor vehicles are used in connection with the work to be performed, Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence combined single limit, for bodily injury and property damage. The City shall be named as an additional insured.

(iv) All Risk Builders Risk Insurance. When the Developer undertakes any construction, including improvements, betterments, and/or repairs, the Developer shall provide All Risk Blanket Builder's Risk Insurance to cover the materials, equipment, machinery and fixtures that are or will be a part of the permanent facilities. Coverage extensions shall include boiler and machinery, and flood.

(v) Professional Liability Insurance. When any architects, engineers or consulting firms perform work in connection with the Industrial Project, Professional Liability

Insurance with limits of not less than \$1,000,000. The policy shall have an extended reporting period of ninety (90) days. When the policy is renewed or replaced, the policy's date must coincide with or precede the commencement of work on the Industrial Project.

(c) Demolition. During the demolition of any structures on the Industrial Property or the Phase 3 Property, the Developer shall procure and maintain, or cause to be procured and maintained, the following kinds and amounts of insurance provided that no explosives are used (and provided that all requirements of City ordinances are met, including increased limits of coverage, if explosives are intended to be used):

(i) Workers' Compensation and Occupational Disease Insurance. Workers' Compensation and Occupational Disease Insurance, in statutory amounts covering all employees who are to provide a service in connection with the Industrial Project. Employer's liability coverage with limits of not less than \$100,000 for each accident or illness shall be included.

(ii) Commercial Liability Insurance (Primary and Umbrella). Commercial Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence, combined single limit, for bodily injury, personal injury, and property damage liability. Products/completed operations, explosion, collapse, underground, independent contractors, broad form property damage

and contractual liability coverages are to be included. The City shall be named as an additional insured.

(iii) Automobile Liability Insurance. When any motor vehicles are used in connection with work to be performed, Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence combined single limit, for bodily injury and property damage. The City shall be named as an additional insured.

28.02 Delivery of Policies; Failure to Comply. The Developer shall deliver to the City original certificates of insurance evidencing compliance with this Article XXVIII, and renewal certificates of insurance if the coverages have an expiration or renewal date occurring prior to the completion of the work being insured. The insurance required herein shall be carried until all work required to be performed under the terms of this Agreement is satisfactorily completed. Failure to carry or keep such insurance in force may constitute a violation of the Agreement, and the City maintains the right to terminate this Agreement. The insurance shall provide for thirty (30) days prior written notice to be given to the City in the event coverage is substantially changed, cancelled, or non-renewed. The Developer acknowledges and agrees that any insurance coverages and limits furnished by the Developer shall in no way limit the Developer's obligations, liabilities and responsibilities provided for in this Agreement or by law. The Developer agrees, and shall cause each

contractor, subcontractor and affiliate to agree, that all property insurers shall waive their rights of subrogation against the City. The City maintains the right to modify, delete, alter or change these requirements.

In the event the Developer fails to comply with this Section, the City, at its option, (without waiving or releasing any obligation or default by the Developer under this Agreement) shall have the unqualified right to obtain or maintain any of the insurance policies required under this Agreement. All sums so expended by the City shall be promptly reimbursed by the Developer to the City upon demand.

ARTICLE XXIX.

PROHIBITION AGAINST CERTAIN TRANSFERS

Except as otherwise expressly permitted herein, prior to the issuance of a City Certificate of Completion for any or all of the Industrial Project, the Developer shall not make, create or suffer to be made any sale, transfer, assignment, or conveyance with respect to this Agreement or to each portion of the Industrial Property, including beneficial interest in any trust or any part thereof, or contract or agree to do any of the same, unless any such sale, transfer of property, or assignment is pursuant to this Article XXIX, other than as provided in Article IV. After the issuance of the City Certificate of Completion as set forth in

Section 10.08 herein for subsequent sale, transfer, deed, assignment or conveyance, the Developer shall be released from any and all of its obligations hereunder relating to that portion of the Industrial Property being conveyed to the extent that any such transferee assumes (expressly or by virtue of being the owner of the property) such obligations which apply to that portion of the Industrial Property being conveyed. This Article shall not prohibit the sale or other transfer of any limited partnership interest in the Developer, which interests may be sold, assigned, issued or otherwise be transferred at any time without the consent of the Commissioner, nor shall it prohibit the Developer from placing a mortgage on any portion of the Industrial Property then owned by the Developer for the purpose of financing part of the construction costs.

ARTICLE XXX. MISCELLANEOUS PROVISIONS

30.01 City's Right to Audit Developer's Books and Records.

Developer agrees that the City shall have the right and authority to review and audit, from time to time, Developer's books and records relating to the T.I.F. Eligible Improvements and the Industrial Project (but will rely on the State Certificate of Completion in lieu thereof in connection with the State's West Campus Building in light of the nature of the City's payment obligation with respect thereto) including, without limitation, Developer's general contractors' sworn statements, general

contracts, subcontracts, purchase orders, waivers of lien and paid receipts and invoices which relate to the T.I.F. Eligible Improvements and the Industrial Project in order to confirm that the Bond proceeds are or have been expended for Eligible Costs Budget items. Developer further agrees to incorporate the City's right to audit books and records as described herein into all written contracts where Bond proceeds are being used by Developer which are entered into by Developer after the date hereof with respect to the Industrial Project.

30.02 Mutual Assistance. The parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications, as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

30.03 Inspection Rights. Any duly authorized representative of any of the parties, at all reasonable times, shall have access to all portions of the Property and the West Campus Building site for the purposes of inspecting the same, except that the City and State shall not have the right to inspect private improvements for End Users by virtue of the aforesaid inspection rights but may otherwise have such rights as provided by law or ordinance. The Developer and its employees, agents and consultants shall specifically have access to all or any portion of the Property, at any time deemed necessary by the Developer, in order to conduct environmental, soil and other tests, to survey the Property and to

take any and all other actions deemed reasonably necessary by the Developer in connection with the Developer's rights and obligations under this Agreement.

30.04 Covenants Running With the Land. Except as otherwise provided in this Agreement or in the Exhibits, it is intended and agreed that all covenants provided in this Agreement on the part of the parties to be performed or observed shall be covenants running with the land to which such covenants pertain binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by the other parties, and successor in interest to the Property, or any part thereof.

30.05 Amendment. This Agreement and any Exhibits attached hereto, may be amended only by the mutual consent of the parties and by the adoption of an ordinance of the City approving said amendment, if required by law, and by the execution of said amendment by the parties or their successors in interest. Notwithstanding the foregoing, if a proposed amendment to this Agreement or an Exhibit does not in any way affect the rights or obligations of the State, this Agreement or Exhibit may be amended upon the written mutual consent of the City and the Developer.

30.06 No Other Agreements. Except as otherwise expressly provided herein, this Agreement and the Preliminary Redevelopment Agreement supersede all prior agreements, negotiations and

discussions relative to the subject matter hereof and are a full integration of the agreement of the parties hereto.

30.07 Remedies Cumulative. The remedies of the parties 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 of the other remedies of any such party unless specifically so provided herein.

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

30.09 Notices. All notices, certificates, approvals, consents or other communications desired or required to be given hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) electronic communications, whether by telex, telegram or telecopy; (c) overnight courier; or (d) registered or certified first class mail, postage prepaid, return receipt requested:

IF TO CITY: City of Chicago
Department of Planning and
Development
121 North LaSalle - Room 1000
Chicago, Illinois 60602
Attention: Commissioner
Deputy Commissioner of Finance

WITH COPIES TO: City of Chicago
Department of Law Rm. 511
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Division of Finance and
Economic Development

IF TO DEVELOPER: Chicago Read Joint Venture
c/o The Alter Group, Ltd.
3000 Glenview Road
Wilmette, Illinois 60091
Attention: Randolph F. Thomas
Stephen M. Park

WITH COPIES TO: Mayer, Brown & Platt
190 South LaSalle Street
Chicago, Illinois 60603
Attention: John J. Gearen
Douglas Lubelcheck

IF TO THE STATE: Department of Commerce and
Community Affairs
620 East Adams Street
Springfield, IL 62701
Attn: Thomas Gainer,
Chief Legal Counsel

Department of Central Management
Services
719 Stratton Office Building
Springfield, IL 62706
Attn: Manager, Bureau of
Property Management

Department of Mental Health
and Development Disabilities
Floor 3, Room 311
100 North Ninth Street
Springfield, IL 62706
Attn: Manager, Agency Support
Services

The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, approvals, consents or other communications shall be sent. 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 by electronic means. 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 clause (d) shall be deemed received forty-eight (48) hours following deposit in the mail.

30.10 Paragraph Headings. The paragraph headings and references are for the convenience of the parties and are not intended to limit, vary, define or expand the terms and provisions contained in this Agreement and shall not be used to interpret or construe the terms and provisions of this Agreement.

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

30.12 Recordation of Memorandum of Agreement. The Developer, at its own expense, shall record a Memorandum of this Agreement in proper form with the Cook County Recorder of Deeds. The Memorandum shall contain those matters which the City deems necessary or appropriate, including without limitation, those

matters which touch and concern the land and which are intended to be binding on the Developer's successors and assigns.

30.13 Successors and Assignees. Except as otherwise provided in this Agreement, the terms and conditions of this Agreement are to apply to and bind the successors and assignees of the City, the State and the Developer.

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

30.15 Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to, nor shall they be merged, by reason of any deed transferring title to the Property, including, but not limited to, any deed from the State to the City and any deed from the City to either the Developer, the Residential Developer or New Horizons or from the Developer, the Residential Developer or New Horizons to any successor in interest, and said deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

30.16 Illinois Responsible Property Transfer Act. The State, the City and the Developer agree they will comply with the Illinois Responsible Property Transfer Act ("IRPTA"). If a condition which qualifies the Property as "Real Property" under IRPTA affects only portions of the Property (each such portion being hereinafter referred to as an "IRPTA Parcel"), the State shall, at the Developer's request, create and deliver to the City and the Developer a separate legal description for each IRPTA Parcel and a separate legal description for the remainder of the Property (the "Non-IRPTA Parcel"). The State and the City shall convey the Property using the legal descriptions for the IRPTA Parcel(s) and the Non-IRPTA Parcel, by single or separate deeds at the Developer's option.

30.17 Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

30.18 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the Bond Ordinance, if applicable the Bond Ordinance shall prevail and control.

30.19 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 City.

30.20 Term of Agreement. All provisions herein, unless otherwise provided, shall remain in full force and effect until the later of: (a) the date on which there are no obligations issued by the City outstanding, the security for which in whole or in part are Incremental Taxes generated or to be generated by a portion of the Property; or (b) the date on which the City has been fully reimbursed from Incremental Taxes generated in connection with the Industrial Property; provided, however, that the term of this Agreement shall in no event be longer than the period for which the term of the Redevelopment Area, being the period ending January 11, 2014, is in effect. This period is herein referred to as the "Term of this Agreement".

30.21 Promotional Literature. The City reserves the right to include the name, photograph, artistic rendering and other pertinent information of the Developer, the Industrial Property and the Project in the City's promotional literature and communications.

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

CITY OF CHICAGO:


By: _____
COMMISSIONER OF THE DEPARTMENT
OF PLANNING AND DEVELOPMENT

CHICAGO READ JOINT VENTURE L.P.:

By: 18-CHAI II CORPORATION,
an Illinois corporation,
its sole general partner

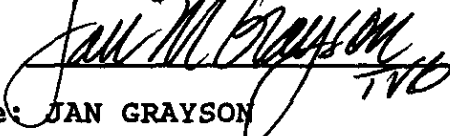
ATTEST:

By: _____
Name: _____
(Asst.) Secretary

By:  _____
Name: William A Aker
Title: President

STATE OF ILLINOIS:

By: DEPARTMENT OF COMMERCE
AND COMMUNITY AFFAIRS

By:  _____
Name: JAN GRAYSON
Title: DIRECTOR

(a:\cleanjil)

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

CITY OF CHICAGO:

By: *Valerie Barretto*
COMMISSIONER OF THE DEPARTMENT
OF PLANNING AND DEVELOPMENT

CHICAGO READ JOINT VENTURE L.P.:

By: 18-CHAI II CORPORATION,
an Illinois corporation,
its sole general partner

ATTEST:

By: _____

Name: _____
(Asst.) Secretary

By: _____

Name: _____

Title: _____

STATE OF ILLINOIS:

By: DEPARTMENT OF COMMERCE
AND COMMUNITY AFFAIRS

By: _____

Name: JAN GRAYSON

Title: DIRECTOR

(a:\cleanjil)

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