

Contract Summary Sheet

Contract (PO) Number: 17676

Specification Number: 66888

Name of Contractor: THEUS PROPERTY HOLDINGS LLC

City Department: PLANNING & DEVELOPMENT

Title of Contract: Rehab Agreement: 4703-17 N. Broadway

Term of Contract: Start Date: 4/17/2008

End Date: 12/31/2025

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

\$1,142,860.00

Brief Description of Work: Rehab Agreement: 4703-17 N. Broadway

Procurement Services Contract Area: COMPTROLLER-OTHER

Vendor Number: 50476022

Submission Date:

JUN 20 2008

DESIGNATION OF THEUS PROPERTY HOLDINGS, L.L.C. AS
PROJECT DEVELOPER, AUTHORIZATION FOR EXECUTION
OF REDEVELOPMENT AGREEMENT, ISSUANCE OF CITY
NOTE AND PAYMENT OF CERTAIN INCREMENTAL
TAXES FOR REHABILITATION OF PROPERTY
AT 4703 -- 4717 NORTH BROADWAY.

The Committee on Finance submitted the following report:

CHICAGO, January 11, 2007.

To the President and Members of the City Council:

Your Committee on Finance, having had under consideration an ordinance authorizing entering into and executing a redevelopment agreement with Theus Property Holdings, L.L.C., amount of note not to exceed \$1,142,860, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

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

Respectfully submitted,

(Signed) EDWARD M. BURKE,
Chairman.

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

Yeas -- Aldermen Flores, Haithcock, Tillman, Preckwinkle, Hairston, Lyle, Beavers, Harris, Beale, Pope, Balcer, Cárdenas, Burke, T. Thomas, Coleman, L. Thomas, Lane, Rugai, Troutman, Brookins, Muñoz, Zalewski, Chandler, Solis, Ocasio, Burnett, E. Smith, Carothers, Reboyras, Matlak, Mell, Austin, Colón, Banks, Mitts, Laurino, O'Connor, Natarus, Daley, Tunney, Levar, Shiller, Schulter, Moore, Stone -- 45.

Nays -- None.

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

The following is said ordinance as passed:

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

WHEREAS, Pursuant to an ordinance adopted by the City Council ("City Council") of the City of Chicago (the "City") on June 27, 2001 and published at pages 62216 -- 62320 of the *Journal of the Proceedings of the City Council of the City of Chicago* (the "*Journal*") of such date, a certain redevelopment plan and project (the "Plan") for Lawrence/Broadway Tax Increment Financing Redevelopment Project Area (the "Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (the "Act"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on June 27, 2001, and published at pages 62321 -- 62330 of the *Journal* of such date, the Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, Pursuant to an ordinance (the "T.I.F. Ordinance") adopted by the City Council on June 27, 2001, and published at pages 62331 -- 62340 of the *Journal* of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

WHEREAS, Theus Property Holdings, L.L.C., an Illinois limited liability company (the "Developer"), has acquired fee simple title to certain property located within the Area at 4703 -- 4717 North Broadway in Chicago (the "Property") and shall rehabilitate an approximately seventeen thousand (17,000) square foot three (3) story building into commercial space and office space (the "Project"); and

WHEREAS, The Developer has proposed to undertake the redevelopment of the Property in accordance with the Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Developer and the City, including but not limited to the acquisition of the Property and construction of the Project, to be financed in part by Available Incremental Taxes (as defined below); and

WHEREAS, Pursuant to Resolution 05-CDC-88 adopted by the Community Development Commission of the City of Chicago (the "Commission") on September 13, 2005, the Commission authorized the City's Department of Planning

and Development ("D.P.D.") to negotiate a redevelopment agreement with the Developer for the Project and to recommend that the Developer be designated as the developer for the Project; and

WHEREAS, The Project is necessary for the redevelopment of the Area; now therefore,

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

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

SECTION 2. The Developer is hereby designated as the developer for the Project pursuant to Section 5/11-74.4-4 of the Act.

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

SECTION 4. The City Council of the City hereby finds that the City is authorized to issue its tax increment allocation revenue obligation in the maximum principal amount of One Million One Hundred Forty-two Thousand Eight Hundred Sixty Dollars (\$1,142,860), plus pay Three Hundred Ten Thousand Dollars (\$310,000) from Incremental Taxes deposited in the General Account of the Fund (the "Excess Incremental Taxes") as the Initial Payment (as defined in the Redevelopment Agreement), to finance a portion of the eligible costs included within the Project.

SECTION 5. There shall be borrowed for and on behalf of the City a principal amount not to exceed One Million One Hundred Forty-two Thousand Eight Hundred Sixty Dollars (\$1,142,860) for the payment of a portion of the eligible redevelopment project costs (as such term is defined under the Act) included within the Project (such costs shall be known herein and in the Redevelopment Agreement as "T.I.F.-Funded Improvements"). The borrowing shall be evidenced by a note of the City in the principal amount up to One Million One Hundred Forty-two Thousand Eight Hundred Sixty Dollars (\$1,142,860), designated "Tax Increment Allocation Revenue Note (Theus Property Holdings, L.L.C. Redevelopment Project), Series A" (the "City Note"). In addition, supported by a requisition form to the City from the Developer, the City is authorized to pay the Developer from Excess Incremental Taxes an amount up to Three Hundred Ten Thousand Dollars (\$310,000) as the Initial Payment. The City Note shall be substantially in the form attached to the

Redevelopment Agreement as (Sub)Exhibit M and made a part hereof, with such additions or modifications as shall be determined to be necessary by the Authorized Officer (the person duly appointed and serving as the Chief Financial Officer of the City being referred to herein as an "Authorized Officer", or if there is no Chief Financial Officer, then the City Comptroller) of the City, at the time of issuance to reflect the purpose of the issue. The City Note shall be dated the date of delivery thereof, and shall also bear the date of authentication, shall be in fully registered form, shall be in the denomination of the outstanding principal amount thereof and shall become due and payable as provided therein. The proceeds of the City Note and the Initial Payment are hereby appropriated for the purposes set forth in this Section 5.

The City Note shall initially bear interest at an annual rate equal to the median for the fifteen (15) business days prior to the Closing Date (as defined in the Redevelopment Agreement) of the ten (10) year United States Treasury constant maturity as published in the daily Federal Reserve Statistical Release plus two hundred seventy-five (275) basis points, and shall provide for accrued, but unpaid, interest to bear interest at the same annual rate. Interest shall begin to accrue as of the date of issuance of the Certificate (as defined in the Redevelopment Agreement) and shall compound on January 1st of each year.

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

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

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

shall have been duly executed by the Registrar by manual signature, and such certificate of authentication upon the City Note shall be conclusive evidence that the City Note have been authenticated and delivered under this ordinance.

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

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

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

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

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

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

SECTION 9. Pursuant to the T.I.F. Ordinance, the City has created a special fund, designated as the Lawrence/Broadway Tax Increment Financing Redevelopment Project Area Special Tax Allocation Fund (the "Fund"). The Authorized Officer of the City is hereby directed to maintain the Fund as a segregated interest-bearing account, separate and apart from the City's Corporate Fund or any other fund of the City. Pursuant to the T.I.F. Ordinance, all Incremental Taxes received by the City for the Area shall be deposited into the Fund.

There is hereby created within the General Account of the Fund a special subaccount to be known as the "Theus Property Holdings, L.L.C. Project Account" (the "Project Account"). The City shall designate and deposit into the Project Account an amount equal to ninety-five percent (95%) of the Incremental Taxes attributable to increases in the equalized assessed value of the tax parcels comprising the Property and deposited into the General Account from and after the year in which the Certificate (as defined in the Redevelopment Agreement) is issued (such amount, the "Available Incremental Taxes"). Subject to the terms and conditions of the Redevelopment Agreement, the City shall use the funds in the Project Account to make payments with respect to the City Note until the City Note has been fully repaid. In the event that an event of default under the Redevelopment Agreement entitles the City to permanently terminate further payments of City Funds (as defined in the Redevelopment Agreement) with respect to the City Note, the City may in its discretion, return the amounts in the Project Account established above that would otherwise be allocated to the payment of the City Note to the Fund of the City and the Project Account shall be closed.

The City hereby assigns, pledges and dedicates the Project Account, together with all amounts on deposit therein, to the payment of the principal of and interest, if any, on the City Note when due under the terms of the Redevelopment Agreement. Upon deposit, the monies on deposit in the Project Account may be invested as hereinafter provided. Interest and income on any such investment shall be deposited in the Project Account. All monies on deposit in the Project Account shall be used to pay the principal of and interest on the City Note, at maturity or upon payment or redemption prior to maturity, in accordance with its terms, which payments from the Project Account are hereby authorized and appropriated by the City. Upon payment of all amounts due under the City Note and the Redevelopment Agreement in accordance with their terms (or the termination of the City's obligation to make such payments), the amounts on deposit in the Project Account, as applicable, shall be deposited in the Fund of the City and the Project Account shall be closed.

Notwithstanding any of the foregoing, payments on the City Note will be subject to the availability of Available Incremental Taxes in the Project Account.

SECTION 10. The City Note is a special limited obligation of the City, and is payable solely from amounts on deposit in the Project Account and shall be a valid claim of the registered owner thereof only against said sources. The City Note shall not be deemed to constitute an indebtedness or a loan against the general taxing powers or credit of the City, within the meaning of any constitutional or statutory provision. The registered owner(s) of the City Note shall not have the right to compel any exercise of the taxing power of the City, the State of Illinois or any political subdivision thereof to pay the principal of or interest on the City Note. The City's obligation to fully repay the City Note is further limited by the terms and conditions of the Redevelopment Agreement.

SECTION 11. Monies on deposit in the Fund or the Project Account, as the case may be, may be invested as allowed under Section 2-32-520 of the Municipal Code of the City of Chicago. Each such investment shall mature on a date prior to the date on which said amounts are needed to pay the principal of or interest on the City Note.

SECTION 12. Pursuant to the Redevelopment Agreement, the Developer shall complete the Project. The eligible redevelopment project costs of the Project constituting T.I.F.-Funded Improvements up to the principal amount of One Million One Hundred Forty-two Thousand Eight Hundred Sixty Dollars (\$1,142,860) shall be deemed to be a disbursement of the proceeds of the City Note. Upon issuance, the City Note shall have in the aggregate an initial principal balance equal to the Developer's prior expenditures for T.I.F.-Funded Improvements (excluding the Initial Payment) up to a maximum amount of One Million One Hundred Forty-two Thousand Eight Hundred Sixty Dollars (\$1,142,860), as supported by a Certificate

of Expenditures in accordance with the City Note and subject to the reductions described in the Redevelopment Agreement. After issuance, the principal amount outstanding under the City Note shall be the initial principal balance of the City Note, plus interest thereon, minus any principal amount and interest paid on the City Note and other reductions in principal as provided in the Redevelopment Agreement.

SECTION 13. The Registrar shall maintain a list of the names and addresses of the registered owners from time to time of the City Note and upon any transfer shall add the name and address of the new registered owner and eliminate the name and address of the transferor.

SECTION 14. The provisions of this ordinance shall constitute a contract between the City and the registered owner(s) of the City Note. All covenants relating to the City Note are enforceable by the registered owner(s) of the City Note.

SECTION 15. The Mayor, the Chief Financial Officer, the City Clerk, the Commissioner (or his or her designee) and the other officers of the City are authorized to execute and deliver on behalf of the City such other documents, agreements and certificates and to do such other things consistent with the terms of this ordinance as such officers and employees shall deem necessary or appropriate in order to effectuate the intent and purposes of this ordinance.

SECTION 16. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 17. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to impair the validity of this ordinance or the instruments authorized by this ordinance or to impair the security for or payment of the instruments authorized by this ordinance; provided further, however, that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for violation of any provision of the Municipal Code.

SECTION 18. This ordinance shall be in full force and effect immediately upon its passage.

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

THEUS PROPERTY HOLDINGS, LLC
REDEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF CHICAGO

AND

THEUS PROPERTY HOLDINGS, LLC

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

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LIST OF EXHIBITS

Exhibit A	*Redevelopment Area
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Exhibit C	*TIF-Funded Improvements
Exhibit D	Redevelopment Plan
Exhibit E	Construction Contract
Exhibit F	Escrow Agreement
Exhibit G	*Permitted Liens
Exhibit H-1	*Project Budget
Exhibit H-2	*MBE/WBE Budget
Exhibit I	Approved Prior Expenditures
Exhibit J	Opinion of Developer's Counsel
Exhibit K	*Preliminary TIF Projection -- Real Estate Taxes
Exhibit L	Requisition Form
Exhibit M	*Form of City Note
Exhibit N	Form of Subordination Agreement

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

[leave blank 3" x 5" space for recorder's office]

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

THEUS PROPERTY HOLDINGS, LLC REDEVELOPMENT AGREEMENT

This Theus Property Holdings, LLC Redevelopment Agreement (this "**Agreement**") is made as of this 17th day of April, 2008, by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Planning and Development ("**DPD**"), and Theus Property Holdings, LLC, an Illinois limited liability company (the "**Developer**").

RECITALS

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

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

C. **City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the "**City Council**") adopted the following ordinances on June 27, 2001: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Lawrence/Broadway Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Lawrence/Broadway Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Lawrence/Broadway Redevelopment Project Area" (the "**TIF Adoption Ordinance**") (items(1)-(3) collectively referred to herein as the "**TIF Ordinances**"). The redevelopment project area referred to above (the "**Redevelopment Area**") is legally described in **Exhibit A** hereto.

D. **The Project:** The Developer has purchased (the "**Acquisition**") certain property located within the Redevelopment Area at 4703-17 North Broadway, Chicago, Illinois 60640 and legally described on **Exhibit B** hereto (the "**Property**"), and, within the time frames set forth in **Section 3.01** hereof, shall commence and complete rehabilitation of an approximately 17,000 square foot 3-story building into Commercial Space and Office Space (the "**Facility**") thereon. The Developer's interior rehabilitation of the Facility will include installation of new HVAC, electrical and low voltage systems as well as replacing and/or repairing existing walls and finishes, while historically sensitive exterior rehabilitation will include cleaning, repairing and tuckpointing (including the yellow and gray original terra cotta tile), as well as replacing urns along the west parapet walls and other missing architectural elements with matching reproductions. The Facility and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on **Exhibit C**) are collectively referred to herein as the "**Project**." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

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

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

In addition, the City may, in its discretion, issue tax increment allocation bonds ("**TIF Bonds**") secured by Incremental Taxes pursuant to a TIF bond ordinance (the "**TIF Bond Ordinance**") at a later date, the proceeds of which (the "**TIF Bond Proceeds**") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes (including any such payment made pursuant to any City Note provided to the Developer pursuant to this Agreement), to make payments of principal and interest on the City Note, or in order to reimburse the City for the costs of TIF-Funded Improvements.

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

SECTION 1. RECITALS

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

SECTION 2. DEFINITIONS

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

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

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

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

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

“Approved Tenant” shall mean during the first ten (10) years after the initial occupancy of the commercial space, any tenant that engages in Retail Approved Purposes.

“Available Incremental Taxes” shall mean an amount equal to ninety-five percent (95%) of the Incremental Taxes deposited in the Lawrence/Broadway Redevelopment Project Area TIF Fund attributable to the taxes levied on the Property commencing the year following the issuance of the Certificate, as adjusted to reflect the amount of the City Fee described in **Section 4.05(b)** hereof.

“Basement Commercial Space” shall mean the space located in the basement of the improvements to be located on the Property that will contain area devoted to commercial and/or retail uses, which will have a net rentable floor area of approximately 6,687 square feet.

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

“Bond Ordinance” shall mean the City ordinance authorizing the issuance of Bonds.

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

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

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

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

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

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

"City Note" shall mean the City of Chicago Tax Increment Allocation Revenue Obligation, Lawrence/Broadway Redevelopment Project Area (Theus Property Holdings, L.L.C. Redevelopment Project) Taxable, Registered No. R-1, ~~to be in the form attached hereto as **Exhibit M**~~, in the maximum principal amount of \$1,142,860, subject to reduction as set forth in **Section 4.03** herein, issued by the City to the Developer as of the date hereof. The City Note shall bear interest at an annual rate equal to the median for the 15 business days prior to the Closing Date of the 10-year U.S. Treasury constant maturity as published in the daily Federal Reserve Statistical Release plus 275 basis points, and shall provide for accrued, but unpaid, interest to bear interest at the same annual rate. Interest shall begin to accrue as of the date of issuance of the Certificate.

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

"Commercial Space" shall mean, collectively, the First Floor Commercial Space and the Basement Commercial Space.

"Commissioner" means the Commissioner of DPD.

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

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

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

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "**Superfund**" or "**Superlien**" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii)

the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago, including but not limited to the Municipal Code of Chicago, Sections 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560.

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

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

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

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

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

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

"First Floor Commercial Space" shall mean the space located on the first floor of the improvements to be located on the Property that will contain area devoted to commercial and/or retail uses, which will have a net rentable floor area of approximately 3,221 square feet.

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

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

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

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

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

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

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

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

"Office Space" shall mean the space located on the second and third floor of the improvements to be located on the Property that will contain area devoted to office uses, which will have a net rentable floor area of approximately 7,518 square feet.

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

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

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

"Prohibited Use" shall mean the use of any portion of the Property for any of the following uses: funeral home, massage parlor, pornographic or "adult" bookstore, tattoo parlor, flea market, any production or manufacturing or industrial use, any use which creates a nuisance or materially increases noise or emissions of dust, odor, smoke, gases, any use which materially increases the risk of a fire, explosion or radioactive hazard, or any use involving Hazardous Materials.

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

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

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

"Qualified Investor" shall mean a qualified institutional buyer (QIB) or a registered investment company.

"Qualified Transfer" shall mean (i) a pledge of the City Note to a lender providing financing or (ii) the sale of the City Note to a Qualified Investor or to a trust where certificates of participation

are sold to Qualified Investors, or (iii) any other such sale or pledge as is reasonably acceptable to the Commissioner.

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

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

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

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

“Retail Approved Purposes” means use of the Project for any retail, commercial or office use that is not a Prohibited Use, which use is approved by DPD, in its sole discretion.

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

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

“Term of the Agreement” shall mean the period of time commencing on the Closing Date and ending on December 31, 2025, such date being the last day of the calendar year in which the taxes levied in the year that is 23 years after the creation of the Redevelopment Area are paid.

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

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

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

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

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

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

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

Title Company shall mean Chicago Title Company.

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

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

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

SECTION 3. THE PROJECT

3.01 The Project. With respect to the Facility, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.17** hereof: (i) commence rehabilitation no later than September 1, 2006; and (ii) complete rehabilitation and conduct business operations therein no later than September 1, 2008.

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

3.03 Project Budget. The Developer has furnished to DPD, and DPD has approved, a Project Budget showing total estimated costs for the Project in an amount not less than Four Million Nine Hundred Nine Thousand Two Hundred Twenty-Three Dollars (\$4,909,223). The Developer hereby certifies to the City that (a) the Initial Payment, together with Lender Financing and Equity described in **Section 4.02** hereof, shall be sufficient to complete the Project; and (b) the Project Budget is true, correct and complete in all material respects to the best of Developer's knowledge.

The Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to **Section 3.04** hereof.

3.04 Change Orders. Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DPD concurrently with the progress reports described in **Section 3.07** hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to DPD for DPD's prior written approval: (a) a reduction in the square footage of the Facility by more than 5%; (b) elimination from the rehabilitation of the Facility of any accessibility or adaptability features that are part of the Project as shown in the Plans and Specifications; (c) a change in the use of the Property to a use other than commercial, retail and/or office; (d) an increase in the budget of more than 10%; or (e) a delay in the completion of the Project by more than 120 days. ~~DPD shall make its best efforts to expeditiously review any such Change Order request and approve or disapprove (with a written explanation given of any disapproval) such proposed Change Order, within thirty (30) days of its receipt thereof. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval (to the extent required in this section). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. Notwithstanding anything to the contrary in this **Section 3.04**, Change Orders costing less than Fifty Thousand Dollars (\$50,000.00) each, to an aggregate amount of Two Hundred Fifty Thousand Dollars (\$250,000.00), do not require DPD's prior written approval as set forth in this **Section 3.04**, but DPD shall be notified in writing of all such Change Orders prior to the implementation thereof and the Developer, in connection with such notice, shall identify to DPD the source of funding therefor.~~

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

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

3.07 Progress Reports. The Developer shall provide DPD with written quarterly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any

change in completion date being considered a Change Order, requiring DPD's written approval pursuant to **Section 3.04**).

3.08 Inspecting Agent or Architect. An independent agent or architect (other than the Developer's architect) approved by DPD shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project hereunder. At the Developer's option, the inspecting agent or architect may be the inspecting agent or architect engaged by any lender providing lender Financing for the Project, provided that said agent or architect is an independent architect licensed to practice in the State of Illinois.

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

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

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

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

SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be \$4,909,223, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to Sections 4.03(b) and 4.06)	\$1,573,615
Lender Financing	\$3,025,608
Initial Payment (subject to Section 4.03)	\$ 310,000

ESTIMATED TOTAL

\$4,909,223

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

4.03 City Funds.

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

Notwithstanding the obligation to reimburse the Developer on a pay-as-you-go basis as set forth in this Section 4.03(a), the maximum amount of City Funds shall be reduced as follows: on a \$0.50-for-\$1 basis to the extent that the actual costs of the Project (excluding the costs of the vaulted sidewalk work) are less than the Project Budget.

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

(i) Initial Payment. The City will make an initial lump sum payment of Three Hundred Ten Thousand Dollars (\$310,000) (the "Initial Payment") on the later of the completion of the vaulted sidewalk work or December 31, 2007.

(ii) City Note. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to issue the City Note to the Developer on the Closing Date in an amount equal to the cost of the TIF-Funded Improvements which have been incurred by Developer as of the Closing Date. The Initial Payment together with the principal amount of the City Note shall not exceed the amount of TIF-Funded Improvements which have been incurred by the Developer and are to be reimbursed by the City through the Initial Payment and payments of principal and interest on the City Note, subject to the provisions hereof; provided, however, that the maximum principal amount of the city Note shall be an amount not to exceed the lesser of \$1,142,860 or 27.6% of the actual total Project costs; and provided, however, that payments under the City Note are subject to the amount of Available Incremental Taxes deposited into the Lawrence/Broadway Redevelopment Project Area TIF Fund being sufficient for such payments and the Initial Payment is subject to the amount of all incremental taxes deposited into the Lawrence/Broadway Redevelopment Project Area TIF fund being sufficient for such payment. From the date of issuance of the

Certificate, the City Note will be funded solely from Available Incremental Taxes. Interest on the City Note will only begin to accrue interest upon the issuance of the Certificate. If, upon issuance of the Certificate, the principal amount of the City Note exceeds the costs of TIF-Funded Improvements incurred in the Project, the principal amount of the City Note, and any accrued interest, will be reduced accordingly. The City shall increase the principal amount of the City Note as the costs of additional TIF-Funded Improvements are incurred by the Developer.

(iii) Payments on the City Note. No payment shall be made on the City Note until after the issuance of the Certificate. The first payment with respect to the City Note shall be made on the later to occur of March 1 of the following year (from Available Incremental Taxes received by the City in the prior year) or two months after the City's receipt of a Requisition Form in accordance with Section 4.04. Thereafter, annual payments shall be made on the later to occur of March 1st of each subsequent calendar year or two months after the City's receipt of a Requisition Form. If, in any year, the City does not make such scheduled annual payment, then, in the next year (and if required, any subsequent years), Available Incremental Taxes shall (a) first be applied to repay any shortfall amounts, (b) next be applied to make such year's scheduled annual principal and interest payment and (c) then be applied to prepay the City Note. The City Note may be prepaid in whole or in part, without premium or penalty, at any time.

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

(iv) Transfer of City Note. After its issuance, the Developer may sell, assign or pledge the City Note pursuant to a Qualified Transfer, subject to City approval of the terms and conditions of such sale, assignment or pledge. Developer's pledge of the City Note to Bridgeview Bank to secure a portion of Lender Financing is hereby approved. Notwithstanding any such permitted pledge, the City shall have no obligation to make any payments with respect to the City Note except to the Developer, and then subject to the conditions set forth in this Agreement, including but not limited to Section 18.15, and in the City Note.

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

respect to the City Note and the City shall have the remedies set forth in Section 15.

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

4.04 Requisition Form. After the date of issuance of the Certificate and prior to each December 31 (or such other date as the parties may agree to) thereafter, beginning in 2007 and continuing throughout the earlier of (i) the Term of the Agreement or (ii) the date that the Developer has been reimbursed in full under this Agreement, the Developer shall provide DPD with a Requisition Form, along with the documentation described therein. Requisition for reimbursement of TIF-Funded Improvements shall be made not more than one time per calendar quarter (or as otherwise permitted by DPD).

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

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

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

(c) Allocation Among Line Items. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line and transfers and relocations of costs and expenses from one line item to another shall be permitted, without the prior written consent of DPD, provided, that all such transfers and/or reallocated line items, qualify as Redevelopment Project Costs.

4.06 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to Section 4.03 hereof, or if the cost of completing the Project exceeds the

Project Budget, the Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and of completing the Project.

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

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

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

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

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

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

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

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

The City shall have the right, in its discretion, to require the Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of

such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Developer. In addition, the Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances, this Agreement (including, without limitation Section 8.19) and/or the Escrow Agreement.

SECTION 5. CONDITIONS PRECEDENT

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

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

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

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

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

5.05 Acquisition and Title. On the Closing Date, the Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Developer as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on Exhibit G hereto and evidences the recording of this Agreement pursuant to the provisions of Section 8.17 hereof. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking),

contiguity, location, access and survey. The Developer has provided to DPD, on or prior to the Closing Date, documentation related to the purchase of the Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DPD's satisfaction, by the Title Policy and any endorsements thereto.

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

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

showing no liens against the Developer (unless bonded or insured over), the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

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

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

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

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

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

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

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

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

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

SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. DPD has approved Developer's selection of Riis Borg Construction Company as the general contractor (the "**General Contractor**") for the construction of the Project. Developer has caused the General Contractor to solicit bids from qualified subcontractors eligible to do business with the City. The Developer shall submit copies of the Construction Contract to DPD in accordance with **Section 6.02** below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

6.02 Construction Contract. The Developer has delivered to DPD a certified copy of the executed Construction Contract with the General Contractor, together with any modifications, amendments or supplements thereto.

6.03 Performance and Payment Bonds. Prior to the commencement of any portion of the Project which includes work on the public way, the Developer shall require that the General

Contractor be bonded for its payment by sureties having an AA rating or better using a bond in a form acceptable to DPD. The City shall be named as obligee or co-obligee on any such bonds.

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

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

SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificate of Completion of Construction or Rehabilitation. Upon completion of the rehabilitation of the Project in accordance with the terms of this Agreement, and upon the Developer's written request, DPD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DPD shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

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

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

Section 18.15 of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

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

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

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

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

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

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

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

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

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

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

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Developer shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon) free and clear of all liens (except for liens which have otherwise been bonded or insured over and the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that the Developer is contesting in good faith pursuant to Section 8.14 hereof);

(e) the Developer is now and until the earlier to occur of the expiration of the Term of the Agreement and the date, if any, on which the Developer has no further interest in the Project shall remain solvent and able to pay its debts as they mature;

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

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

(h) the Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer is a party or by which the Developer is bound and which would materially affect the Developer's ability to complete or cause the completion of the Project;

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

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

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

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

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

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

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

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

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

8.06 Employment Opportunity; Progress Reports. ~~The Developer covenants and agrees~~ to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in **Section 10** hereof during the construction of the Project; provided, however, that the contracting, hiring and testing requirements associated with the MBE/WBE and City resident obligations in Section 10 shall be applied on an aggregate basis and the failure of the General Contractor to require each subcontractor to satisfy, or the failure of any one subcontractor to satisfy, such obligation shall not result in a default or a termination of the Agreement or require payment of the City resident hiring shortfall amount if such Section 10 obligations are satisfied on an aggregate basis. The Developer shall deliver to the City monthly written progress reports detailing compliance with the requirements of **Sections 8.08, 10.02 and 10.03** of this Agreement.. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which the Developer shall correct any shortfall.

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

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

8.09 Arms-Length Transactions. Unless DPD has given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information with respect to any entity to

receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement.

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

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

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

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

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

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

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

relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this **Section 8.14**); or

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

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

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

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

8.18 Real Estate Provisions.

(a) **Governmental Charges.**

(i) **Payment of Governmental Charges.** The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create or may create a lien upon the Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook

County, and municipalities other than the City) relating to the Developer, the Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. The Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. The Developer's right to challenge real estate taxes applicable to the Property is limited as provided for in Section 8.18(c) below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to DPD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DPD's sole option,

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

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

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

(c) Real Estate Taxes.

(i) Acknowledgment of Real Estate Taxes. The Developer agrees that (A) for the purpose of this Agreement, the total projected minimum assessed value of the Property ("Minimum Assessed Value") is shown on Exhibit K attached hereto and incorporated herein by reference for the years noted on Exhibit K; and (B) the real estate taxes anticipated to be generated and derived from the respective portions of the Property and the Project for the years shown are fairly and accurately indicated in Exhibit K.

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

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

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

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

8.19 Commercial/Office Space Covenant.

(a) Approved Tenants. For a period of ten years following issuance of the Certificate, Developer shall lease space in the Facility only to Approved Tenants.

(b) Minimum Occupancy Requirements. Not later than March 1st of the year following the year of issuance of the Certificate, Developer shall lease and cause to be occupied not less than 75% of the net leasable square footage of the First Floor Commercial Space, and not less than 50% of the net leasable square footage of the Office Space (such percentages collectively referred to herein as the "Minimum Occupancy"). Thereafter, and as a prerequisite for payments to be made on the City Note, Developer shall maintain an average occupancy ("Average Minimum Occupancy") over the twelve-month period preceding Developer's submission of an Occupancy Report (as defined below) equal to the Minimum Occupancy. The floor area of the Basement Commercial Space shall ~~not be included in the calculation of area of net leasable square footage that must be leased and~~ occupied to achieve Minimum Occupancy.

(c) Occupancy Reports; Occupancy Defaults. Contemporaneously with Developer's requisition for its annual disbursement under the City Note, Developer shall deliver to DPD an occupancy progress report ("Occupancy Report") detailing compliance with the Average Minimum Occupancy requirement for the 12-month period beginning January 1 of the preceding year. Any portion of the Basement Commercial Space that is leased and occupied shall be included in the calculation of the area that has been leased and occupied as Office Space in the preparation of the Occupancy Report. If Developer submits an Occupancy Report that indicates a failure to maintain the Average Minimum Occupancy (an "Occupancy Default"), such Occupancy Default shall not be deemed an Event of Default under this Agreement if: (i) the Developer has maintained the Minimum Occupancy in the 30 days preceding the date of the Occupancy Report and has provided the City with evidence that it has contracted for the Minimum Occupancy for the following year; (ii) the Developer has cured the Occupancy Default within one year following the date of the Occupancy Report specifying such Occupancy Default (such one-year period is referred to as the "Minimum Cure Period"); or (iii) the Developer has commenced to cure an Occupancy Default within the Minimum Cure Period and has cured such Occupancy Default within two years following the date of the Occupancy Report specifying the Occupancy Default (such two-year period is referred to as the "Maximum Cure Period"). Provided Developer has cured all Occupancy Defaults, Developer shall continue to deliver Occupancy Reports and maintain the Average Minimum Occupancy after the 10th anniversary of the issuance of the Certificate for the number of years for which Developer did not maintain the Average Minimum Occupancy.

(d) Occupancy Remedies. Upon the occurrence of an Occupancy Default, the City may suspend disbursement of payments due under the City Note until Developer has complied with the occupancy covenants in this **Section 8.19**. No interest shall accrue on the City Note: (i) during the year described in the Occupancy Report with an Occupancy Default; (ii) during the Minimum Cure Period unless Developer commences to cure the Occupancy Default within the Minimum Cure Period; or (iii) during the Maximum Cure Period. An Occupancy Default that is not cured as set forth in this **Section 8.19** shall be an Event of Default hereunder.

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

SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

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

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

SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Procurement Officer's determination as to whether the Developer must surrender damages as provided in this paragraph.

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

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

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

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

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

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

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the

Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. In accordance with Section 2-92-730, Municipal Code of Chicago, the Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DPD.

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

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

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

(g) Prior to the commencement of the Project, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation,

that the Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to the Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

SECTION 11. ENVIRONMENTAL MATTERS

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

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

SECTION 12. INSURANCE

The Developer must provide and maintain, at Developer's own expense, or cause to be provided and maintained during the term of this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to execution and delivery of this Agreement

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (Primary and Umbrella)

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

(iii) All Risk Property

~~All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.~~

(b) Construction Prior to the construction of any portion of the Project, Developer will cause its architects, contractors, subcontractors, project managers and other parties constructing the Project to procure and maintain the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (Primary and Umbrella)

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

(iii) Automobile Liability (Primary and Umbrella)

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

(iv) Railroad Protective Liability

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

(v) All Risk /Builders Risk

When Developer undertakes any construction, including improvements, betterments, and/or repairs, the Developer must provide or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the project. The City of Chicago is to be named as an additional insured and loss payee/mortgagee if applicable.

(vi) Professional Liability

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

(vii) Valuable Papers

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the re-creation and reconstruction of such records.

(viii) Contractors Pollution Liability

When any remediation work is performed which may cause a pollution exposure, the Developer must cause remediation contractor to provide Contractor Pollution Liability covering bodily injury, property damage and other losses caused by pollution conditions that arise from the contract scope of work with limits of not less than \$1,000,000 per occurrence. Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City of Chicago is to be named as an additional insured.

(c) Post Construction:

All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(d) Other Requirements:

The Developer must furnish the City of Chicago, Department of Planning Services, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Developer must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to closing. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Developer is not a waiver by the City of any requirements for the Developer to obtain and maintain the specified coverages. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work and/or terminate agreement until proper evidence of insurance is provided.

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

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Developer and Contractors.

The Developer hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Developer in no way limit the Developer's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Developer under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

If Developer is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Developer must require the General Contractor and subcontractors to provide the insurance required herein, or Developer may provide the coverages for the General Contractor and subcontractors. All contractors and subcontractors are subject to the same insurance requirements of Developer unless otherwise specified in this Agreement.

If Developer, the General Contractor or a subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

SECTION 13. INDEMNIFICATION

13.01 General Indemnity. Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

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

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

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

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

provided, however, that Developer shall have no obligation to an Indemnitee arising from the wanton or willful misconduct of that Indemnitee. To the extent that the preceding sentence may be

unenforceable because it is violative of any law or public policy, Developer shall contribute the maximum portion that it is permitted to pay and satisfy under the applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this **Section 13.01** shall survive the termination of this Agreement.

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

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

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

SECTION 15. DEFAULT AND REMEDIES

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

- (a) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement or any related agreement;
- (b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's business, property, assets, operations or condition, financial or otherwise;
- (c) the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;
- (d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, including any fixtures

now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

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

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

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

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

(i) the dissolution of the Developer;

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

(k) prior to the issuance of the Certificate, the sale or transfer of a majority of the ownership interests of the Developer in violation of this Agreement.

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

15.02 Remedies. Upon the occurrence of an Event of Default (subject to applicable cure provisions), the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or

proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein.

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

SECTION 16. MORTGAGING OF THE PROJECT

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

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

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with **Section**

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

(c) Prior to the issuance by the City to the Developer of a Certificate pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner.

(d) If a default by the Developer under this Agreement occurs and the Developer does not cure it within the applicable cure period, the City shall use reasonable efforts to give to the mortgagee under an Existing Mortgage copies of any notices of default which it may give to the Developer with respect to the Project pursuant to the Agreement. Under no circumstances shall the Developer or any third party be entitled to rely upon this Section 16(d). The failure of the City to deliver such notice shall in no instance alter its rights or remedies under this Agreement.

(e) By virtue of Developer's agreement hereby, the City agrees that it shall accept a cure by any mortgagee in fulfillment of the Developer's obligations, for the account of the Developer and with the same force and effect as if performed by the Developer. No cure or attempted cure by or on behalf of such mortgagee shall cause it to be deemed to have accepted an assignment of this Agreement.

SECTION 17. NOTICE

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

If to the City:

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

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

If to the Developer: Theus Property Holdings, LLC
618 W. Fulton
Chicago, Illinois 60661

With Copies To: DLA Piper Rudnick Gray Cary US LLP
203 N. LaSalle Street, Suite 1900
Chicago, Illinois 60601
Attention: Paul Shadle

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

SECTION 18. MISCELLANEOUS

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

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

18.03 Limitation of Liability. No member, official or employee of the City shall be personally liable to the Developer or any successor in interest in the event of any default or breach by

the City or for any amount which may become due to the Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

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

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

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

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

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

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

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

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

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

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

18.14 Approval. Wherever this Agreement provides for the approval or consent of the City, DPD or the Commissioner, or any matter is to be to the City's, DPD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or DPD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City. In furtherance of the foregoing, the terms of this Agreement may be modified administratively by the Commissioner, ~~without the same being deemed an amendment to this Agreement provided that the Commissioner,~~ in consultation with the Corporation Counsel of the City, has determined that such modification is appropriate and consistent with the terms and conditions of this Agreement and the purposes underlying the provisions hereof.

18.15 Assignment. Prior to the issuance of the Certificate, the Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City subject to the provisions set forth in Section 4.03(b) hereof; provided that the Developer may at any time assign, on a collateral basis, the City Note to a lender providing Lender Financing. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Sections 8.18 and 8.20 (Survival of Covenants) hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

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

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

this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

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

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

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

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

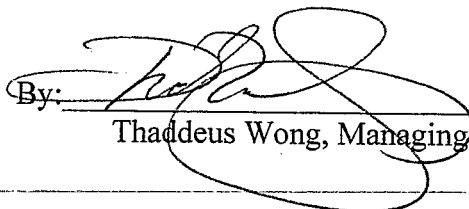
18.22 Business Relationships. The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "**Business Relationship**" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer hereby represents and warrants that, to the best of

its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

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

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

THEUS PROPERTY HOLDINGS, LLC

By: 
Thaddeus Wong, Managing Member

CITY OF CHICAGO


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

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

THEUS PROPERTY HOLDINGS, LLC

By: _____
Thaddeus Wong, Managing Member

CITY OF CHICAGO

By: 
Arnold Randall, Commissioner,
Department of Planning and Development

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Carri J. Sullivan, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Thaddeus Wong, personally known to me to be the Managing Member of Theus Property Holdings, LLC, an Illinois limited liability company (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Developer, as his/her free and voluntary act and as the free and voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 20th day of March, 2008.

Carri J. Sullivan
Notary Public

My Commission Expires 3/6/12

(SEAL)

Commission # 597881

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT A

Redevelopment Area Legal Description

See attached.

Legal Description.

Lawrence/Broadway T.I.F.

All that part of Sections 8 and 17 in Township 40 North, Range 14 East of the Third Principal Meridian, bounded and described as follows:

beginning at the point of intersection of the west line of North Broadway and the south line of West Foster Avenue; thence west along said south line of West Foster Avenue to the southerly extension of the east line of Lot 25 in Block 16 of Cochran's Addition to Edgewater, a subdivision in the east half of the northwest quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian, said east line of Lot 25 being also the west line of the alley west of North Broadway; thence north along said southerly extension and along the west line of the alley west of North Broadway and along the northerly extension thereof to the north line of West Berwyn Avenue; thence east along said north line of West Berwyn Avenue to the west line of North Broadway; thence south along said west line of North Broadway to the westerly extension of the north line of Lot 18 in Block 10 of John Lewis Cochran's Subdivision, a subdivision of the west half of the northeast fractional quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian; thence east along said westerly extension and the north line of Lot 18 in Block 10 of John Lewis Cochran's Subdivision to the east line of said Lot 18, said east line of Lot 18 being also the west line of the alley east of North Broadway; thence south along said east line of Lot 18 in Block 10 of John Lewis Cochran's Subdivision to the westerly extension of the north line of Lots 13 and 14 in said Block 10 of John Lewis Cochran's Subdivision, said north line of Lots 13 and 14 being also the south line of the alley north of West Foster Avenue; thence east along said westerly extension and the north line of said Lots 13 and 14 in Block 10 of John Lewis Cochran's Subdivision and along the easterly extension thereof to the west line of Lots 1 through 12, inclusive, in said Block 10 of John Lewis Cochran's Subdivision, said west line of Lots 1 through 12, inclusive, in Block 10 of John Lewis Cochran's Subdivision being also the east line of the alley west of North Winthrop Avenue; thence south along said east line of the alley west of North Winthrop Avenue to the north line of West Ainslie Street; thence west along said

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north line of West Ainslie Street to the east line of North Broadway; thence south along said east line of North Broadway to the north line of Lot 61 in George Lill's Sheridan Road Addition to Chicago, a subdivision of part of Lot 4 of Fussey and Fennimore's Subdivision in the west half of the southeast fractional quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian; thence east along said north line of Lot 61 in George Lill's Sheridan Road Addition to Chicago to the east line thereof, said east line of Lot 61 being also the west line of the alley east of North Broadway; thence south along said east line of Lot 61 in George Lill's Sheridan Road Addition to Chicago to the north line of Lot 1 in Snow and Dickinson's Subdivision of part of Block 4 of Fussey and Fennimore's Subdivision in the west half of the southeast fractional quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian, said north line of Lot 1 being also the south line of a public alley; thence east along said north line of Lot 1 in Snow and Dickinson's Subdivision and along the easterly extension thereof to the east line of the alley lying east of and adjoining said Lot 1 in Snow and Dickinson's Subdivision, said east line of the alley being also the west line of the Chicago Transit Authority right-of-way; thence north along said west line of the Chicago Transit Authority right-of-way to the south line of West Ainslie Street; thence east along said south line of West Ainslie Street to the west line of North Winthrop Avenue; thence north along said west line of North Winthrop Avenue to the north line of West Ainslie Street; thence east along said north line of West Ainslie Street to the northerly extension of the west line of Lot 21 in George Lill's Sheridan Road Addition to Chicago, a subdivision of part of Lot 4 of Fussey and Fennimore's Subdivision in the west half of the southeast fractional quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian, said west line of Lot 21 being also the east line of the alley west of North Kenmore Avenue; thence south along said northerly extension and the east line of the alley west of North Kenmore Avenue to the easterly extension of the north line of Lot 37 in aforesaid George Lill's Sheridan Road Addition to Chicago; thence west along said easterly extension and the north line of Lot 37 in George Lill's Sheridan Road Addition to Chicago to the west line thereof, said west line of Lot 37 being also the east line of North Winthrop Avenue, thence south along said west line of Lot 37 in George Lill's Sheridan Road Addition to Chicago to the south line thereof; thence east along said south line of Lot 37 in George Lill's Sheridan Road Addition to Chicago and along the easterly extension thereof, and along the south line of Lot 24 in said George Lill's Sheridan Road Addition to Chicago and along the easterly extension thereof to the east line of North Kenmore Avenue; thence south along said east line of North Kenmore Avenue to the north line of the south 15 feet of Lot 11 in

said George Lill's Sheridan Road Addition to Chicago; thence east along said north line of the south 15 feet of Lot 11 in George Lill's Sheridan Road Addition to Chicago to the east line of said Lot 11, said east line of Lot 11 being also the west line of the alley east of North Kenmore Avenue; thence north along said west line of the alley east of North Kenmore Avenue to the westerly extension of the south line of Lot 1 in said George Lill's Sheridan Road Addition to Chicago; thence east along said westerly extension and the south line of Lot 1 in George Lill's Sheridan Road Addition to Chicago to the west line of North Sheridan Road; thence north along said west line of North Sheridan Road to the westerly extension of the centerline of vacated West Ainslie Street lying north of and adjoining Lots 1, 2 and 3 in Castlewood Subdivision of that part of Lot 4 of Fussey and Fennimore's Subdivision, lying east of the centerline of Sheridan Road and north of the south 5.2 chains of the east half of the southeast fractional quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian; thence east along said westerly extension and the centerline of vacated West Ainslie Street lying north of and adjoining Lots 1, 2 and 3 in Castlewood Subdivision to the east line of said vacated West Ainslie Street; thence south along said east line of vacated West Ainslie Street and along the east line of Lots 3 and 40 in said Castlewood Subdivision and along the southerly extension thereof and along the east line of Lots 45 and 85 in said Castlewood Subdivision and along the southerly extension thereof to the south line of West Gunnison Street; thence west along said south line of West Gunnison Street to the east line of North Sheridan Road; thence south along said east line of North Sheridan Road to the north line of West Lawrence Avenue; thence east along said north line of West Lawrence Avenue to the northerly extension of the west line of Lot 15 in the subdivision of the north 4 acres of the east half of the northeast quarter of Section 17, Township 40 North, Range 14 East of the Third Principal Meridian; thence south along said northerly extension and the west line of Lot 15 in said subdivision of the north 4 acres of the east half of the northeast quarter of Section 17 to the south line of said Lot 15, said south line of Lot 15 being also the north line of the alley south of West Lawrence Avenue; thence east along said north line of the alley south of West Lawrence Avenue to the northerly extension of the east line of Lot 9 in Herdien-Hofflund & Carson's Subdivision of the south 6 acres of the north 10 acres of the east half of the northeast quarter of Section 17, Township 40 North, Range 14 East of the Third Principal Meridian; thence south along said northerly extension and the east line of Lot 9 in Herdien-Hofflund & Carson's Subdivision and along the southerly extension thereof to the south line of West Lakeside Avenue; thence west along said south line of West Lakeside Avenue to the east

line of Lot 20 in Horace A. Goodrich's Subdivision of the south 10 rods of the north 30 rods of the east half of the northeast quarter of Section 17, Township 40 North, Range 14 East of the Third Principal Meridian; thence north along the northerly extension of said east line of Lot 20 in Horace A. Goodrich's Subdivision to the north line of West Lakeside Avenue; thence west along said north line of West Lakeside Avenue and along the westerly extension thereof to the west line of North Sheridan Road; then south along said west line of North Sheridan Road to the south line of Lot 8 in William Deering's Surrenden Subdivision in the west half of the northeast quarter of Section 17, Township 40 North, Range 14 East of the Third Principal Meridian; thence west along said south line of Lot 8 in William Deering's Surrenden Subdivision to the west line thereof, said west line of Lot 8 being also the east line of the alley west of North Sheridan Road; thence north along said east line of the alley west of North Sheridan Road to the easterly extension of the south line of Lot 99 in said William Deering's Surrenden Subdivision; thence west along said easterly extension and the south line of Lot 99 in said William Deering's Surrenden Subdivision and along the westerly extension thereof and along the south line of Lot 102 in said William Deering's Surrenden Subdivision and along the westerly extension thereof to the east line of Lot 2 in the subdivision of Lots 150 to 157, inclusive, of William Deering's Surrenden Subdivision in the west half of the northeast quarter of Section 17, Township 40 North, Range 14 East of the Third Principal Meridian, said east line of Lot 2 being also the west line of the alley east of North Winthrop Avenue; thence south along said west line of the alley east of North Winthrop Avenue to the south line of Lot 6 in said subdivision of Lots 150 to 157, inclusive, of William Deering's Surrenden Subdivision; thence west along said south line of Lot 6 in the subdivision of Lots 150 to 157, inclusive, of William Deering's Surrenden Subdivision to the west line thereof, said west line of Lot 6 being also the east line of North Winthrop Avenue; thence north along said east line of North Winthrop Avenue to the easterly extension of the south line of Lot 1 in the subdivision of Lots 160 to 169, inclusive, of William Deering's Surrenden Subdivision in the west half of the northeast quarter of Section 17, Township 40 North, Range 14 East of the Third Principal Meridian; thence west along said easterly extension and the south line of Lot 1 in the subdivision of Lots 160 to 169, inclusive, of William Deering's Surrenden Subdivision to the west line thereof, said west line of Lot 1 being also the east line of the alley west of North Winthrop Avenue; thence north along said east line of the alley west of North Winthrop Avenue to the south line of West Lawrence Avenue; thence west along said south line of West Lawrence Avenue to the east line of Lot 1 in the resubdivision of Lots 206 to 227, inclusive, and

the vacated alley adjoining said Lots 206 to 227 of William Deering's Surrenden Subdivision in the west half of the northeast quarter of Section 17, Township 40 North, Range 14 East of the Third Principal Meridian, said east line of Lot 1 being also the west line of the Chicago Transit Authority right-of-way; thence south along said west line of the Chicago Transit Authority right-of-way to the easterly extension of the south line of Lots 238 and 235 of William Deering's Surrenden Subdivision in the west half of the northeast quarter of Section 17, Township 40 North, Range 14 East of the Third Principal Meridian, said south line of Lots 238 and 235 being also the north line of West Leland Avenue; thence west along said easterly extension and the north line of West Leland Avenue to the west line of North Racine Avenue; thence south along said west line of North Racine Avenue to the south line of Lot 14 in Sheridan Drive Subdivision in the northwest quarter of Section 17, Township 40 North, Range 14 East of the Third Principal Meridian; thence west along said south line of Lot 14 in Sheridan Drive Subdivision and along the westerly extension thereof to the east line of Lot 59 in said in Sheridan Drive Subdivision, said east line of Lot 59 being also the west line of the alley east of North Magnolia Avenue, thence north along said west line of the alley east of North Magnolia Avenue to the south line of West Lawrence Avenue; thence west along said south line of West Lawrence Avenue to the southerly extension of the west line of Lot 5 in the subdivision of Lots 1 to 5 in Block 4 in Rufus C. Hall's Addition to Argyle, a subdivision in the east half of the southwest quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian, said west line of Lot 5 being also the east line of Saint Bonifacius Cemetery; thence north along said southerly extension and the west line of Lot 5 in the subdivision of Lots 1 to 5 in Block 4 in Rufus C. Hall's Addition to Argyle and along the northerly extension thereof to the westerly extension of the south line of Lot 6 in Rufus C. Hall's Addition to Argyle, a subdivision in the east half of the southwest quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian, said south line of Lot 6 being also the north line of the alley north of West Lawrence Avenue; thence east along said westerly extension and the south line of Lot 6 in Rufus C. Hall's Addition to Argyle to the west line of North Magnolia Avenue; thence north along said west line of North Magnolia Avenue to the westerly extension of the south line of Lot 17 in Herman Nether Et Al. Resubdivision of Block 1 (except Lots 1, 2 and 3) in Rufus C. Hall's Addition to Argyle, a subdivision in the east half of the southwest quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian; thence east along said westerly extension and the south line of Lot 17 in Herman Nether Et Al. Resubdivision to the east line thereof, said east line of Lot 17 being also the west line of the alley west of North Broadway; thence north along said west line of the alley west of North Broadway to the south line of Lot 19 in Block 1 in A. J. Brown's Subdivision of Chytraus' Addition to Argyle, a subdivision in the east half of the southwest quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian, said south line of Lot 19 being also the north line of the alley south of West

Winnemac Avenue; thence east along said south line of Lot 19 in Block 1 in A. J. Brown's Subdivision to the west line of Lot 20 in said Block 1 in A. J. Brown's Subdivision; thence north along said west line of Lot 20 in Block 1 in A. J. Brown's Subdivision and along the northerly extension thereof and along the east line of Lot 29 in Block 2 in said A. J. Brown's Subdivision to the north line of said Lot 29, said north line of Lot 29 being also the south line of the alley south of West Carmen Avenue; thence west along said south line of the alley south of West Carmen Avenue to the southerly extension of the east line of Lot 27 in said Block 2 of A. J. Brown's Subdivision, said east line of Lot 27 being also the west line of a 6 foot alley west of North Broadway; thence north along said southerly extension and the east line of Lot 27 in said Block 2 of A. J. Brown's Subdivision and along the northerly extension thereof to the north line of West Carmen Avenue; thence east along said north line of West Carmen Avenue to the east line of the parcel of property bearing Permanent Index Number 14-08-305-054; thence north along said east line of the parcel of property bearing Permanent Index Number 14-08-305-054 to the north line thereof, said north line of the parcel of property bearing Permanent Index Number 14-08-305-054 being also the south line of Lot 6 in Brown's 1st Addition to Argyle, a subdivision in the east half of the southwest quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian; thence west along said south line of Lot 6 in Brown's 1st Addition to Argyle to the east line of the west 30 feet of said Lot 6 in Brown's 1st Addition to Argyle, thence north along said east line of the west 30 feet of said Lot 6 in Brown's 1st Addition to Argyle and along the northerly extension thereof to the north line of West Winona Street; thence east along said north line of West Winona Street to the west line of North Broadway; thence north along said west line of North Broadway to the point of beginning at the south line of West Foster Avenue.

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT B

Property Legal Description

LOTS 18 AND 19 IN THE RESUBDIVISION OF LOTS 206 TO 227 AND VACATED ALLEY ADJOINING SAID LOTS IN WILLIAM DEERING'S SURRENDEN SUBDIVISION IN THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 17, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PIN: 14-17-201-004-0000

Address: 4703-17 N. Broadway, Chicago, IL

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT C

TIF-FUNDED IMPROVEMENTS

Acquisition	\$1,400,000
Sidewalk Improvements	<u>\$ 310,000</u>
Total	\$1,710,000*

*Of this total, only an amount not to exceed the lesser of \$1,142,860 or 27.6% of the actual total Project costs will be paid.

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT D

Redevelopment Plan

See attached.

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT E

Construction Contract

See attached.

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT F

Escrow Agreement

See attached.

CONSTRUCTION LOAN ESCROW TRUST AND DISBURSING AGREEMENT

Escrow Trust No.: NA 024004110 002

Commitment and/or Policy No.: 1401 SA6289019 ASA

ARTICLE I: General Information

A. Owner/Borrower:

THEUS PROPERTY HOLDINGS, LLC
MIKE O'BLOY
1035 W. LAKE ST.
CHICAGO, ILLINOIS 60607

Attorney for Owner/Borrower:

JOHN LOVESTRAND
19 S. LASALLE ST
SUITE 900
CHICAGO, ILLINOIS 60603

Telephone No.: (773) 251-6600

Fax No.: (773) 975-0274

Telephone No.:

Fax No.:

Attorney for Lender:

B. Lender:

Name: BRIDGEVIEW BANK
Address:
1970 N. HALSTED
CHICAGO, ILLINOIS 60614

Name:

Address:

Contact Person: BRENT MEDER

Telephone No.: (773) 975-5309

Fax No.: (773) 327-5901

Telephone No.:

Fax No.:

C. Escrow Trustee:

Name: Chicago Title and Trust Company, a corporation of Illinois (hereinafter known as CT&T Co.)

Address:
3225 N. ASHLAND AVENUE
CHICAGO, ILLINOIS 60657

Contact Person: FRANCES BROWN

Telephone No.: (773) 528-1816

Fax No.: () -

D. Title Insurer:

Name: Chicago Title Insurance Company, a corporation of Missouri (hereinafter known as CTIC)

Address:
3225 N. ASHLAND AVENUE, CHICAGO, ILLINOIS 60657

Contact Person: FRANCES BROWN

Telephone No.: (773) 528-1816

Fax No.: () -

E. Inspector/Architect:

Name:

Address:

Contact Person:

Telephone No.:

Fax No.:

F. General Contractor:

Name: PEAK CONSTRUCTION
Address: 2201 W. ROSCOE
CHICAGO, ILLINOIS

Contact Person: MIKE O'BLOY

Telephone No.: (773) 281-5252

Fax No.:

G. Construction Manager:

Name:

Address:

Contact Person:

Telephone No.:

Fax No.:

H. Project Name: 4703-15 BROADWAY

Project Location: 4703-13 N. BROAUEWAY

I. Cash Deposits:

Amount of Deposits to be made by Lender:

\$0.00

Amount of Deposits, if any, to be made by Owner/Borrower:

\$0.00

J. Billing Instructions:

Title and Construction Escrow charges are to be billed to:

Name: CHARLES L. GOODBAR III

Address:

ARTICLE 2: Recitals

- A. Owner/Borrower has executed/will execute a mortgage/trust deed encumbering the premises described as follows:

See Exhibit "A" attached hereto and made a part hereof/Same as those described in CTIC Commitment/Policy No. 1401 SA6289019 ASA

for the purpose of financing, in whole or in part, the construction of or the rehabilitation of improvements thereon (the Project).

For the benefit of the Lender, CTIC has been requested to issue its ALTA Commitment and/or Policy insuring the lien of the mortgage from the consequences of mechanics' liens on an interim basis as construction of the Project progresses; and for the benefit of Lender and Owner/Borrower, CT&T Co. has been requested to provide a disbursing service as a means to pay for construction and related development costs.

At the request of Owner/Borrower, Lender will make periodic cash deposits into this Trust to be disbursed by Escrow Trustee in accordance with the provisions of this Agreement as hereinafter set forth. Said deposits will not be requested more frequently than once per calendar month. Owner/Borrower may also deposit or cause to be deposited funds not constituting mortgage proceeds into this Trust which said funds shall also be disbursed by Escrow Trustee pursuant to provisions of this Agreement.

Owner/Borrower represents and warrants to CT&T Co. that at the date of this Agreement, funds available for construction payment are ample to complete the Project.

- B. The parties hereto agree that Escrow Trustee will disburse Trust deposits made for construction payment to SUB-CONTRACTOR. In the event that the General Contractor and any subcontractor jointly authorize the Escrow Trustee to pay any funds due one to the other, the Escrow Trustee may comply with such authorization. However, it is the intention of the parties named herein and signatory hereto that no person not a party signatory to this escrow shall have the right to look to the Escrow Trustee for any disbursement hereunder under a third party beneficiary theory or otherwise, and that the Escrow Trustee owes no duty to any such third party to make any disbursement.

ARTICLE 3: Requirements

- A. Prior to the first disbursement of funds hereunder by Escrow Trustee, the following requirements shall have been satisfied, to wit:

- (1) The Escrow Trustee shall furnish or shall be prepared to furnish to the Lender, as insured, a Standard ALTA Construction Loan Policy (the Policy), together with CTIC's Standard Interim Mechanics' Lien Endorsement 10A and such other endorsements as set forth hereinafter. If such policy has issued to Lender prior to Escrow Trustee's first disbursement of funds hereunder, then Escrow Trustee shall furnish or be prepared to furnish CTIC Date Down Endorsement 10 and Interim Mechanics' Lien Endorsement 10A covering the requested disbursement.
- (2) Other endorsements, if any:
- (3) Owner/Borrower shall furnish Lender and Escrow Trustee a Sworn Owner's Statement disclosing the various contracts entered into by the Owner/Borrower relating to the construction of the Project and setting forth the names of the contractors, their addresses, the kind of service, work or materials to be furnished, the amounts of such contracts, the amounts paid to date, if any, the amounts of current payments, if any, and the balances to become due, if any.
- (4) The Owner/Borrower shall furnish or cause to be furnished to Lender and Escrow Trustee a sworn statement to Owner by the General Contractor setting forth the names and addresses of such persons furnishing labor, service or materials (i. e., subtrades and material suppliers), the kind of labor, service or materials to be furnished, the amounts of the contracts, amounts paid to date, if any, amounts of current payments, if any, and balances to become due, if any.

LENDER SHALL FURNISH Escrow Trustee the following, to wit:

- (a) An approval of the conditions of the title as disclosed by the said commitment.
 - (b) An approval for loan disbursement purposes of the Owner's Statement and the sworn statement of the General Contractor.
- B. Prior to each disbursement of funds by Escrow Trustee hereunder, the Owner/Borrower shall furnish or cause to be furnished to Escrow Trustee the following:
- (1) A current dated Sworn Owner's Statement as described hereinbefore in this Article 3 at A(3);
 - (2) A current dated Sworn Statement to Owner by the General Contractor, as described hereinbefore in this Article 3 at A(4), covering its current construction draw request.
 - (3) Sufficient funds to cover the current disbursement request.
 - (4) Written approval by Owner/Borrower of the payment by Escrow Trustee of the current construction draw(s). In the event that nonconstruction costs are to be paid by Escrow Trustee with Trust funds, then Owner/Borrower shall provide written directions to Escrow Trustee, approved in writing by Lender, setting forth the names and addresses of the payees, the amounts of the respective payments, and the purpose of the payments, i. e., legal fees, real estate taxes, etc.
 - (5) A report by the Inspector or a certification by the Architect certifying that work has been completed and materials are in place as indicated by the current construction draw(s) request approved by the Owner/Borrower.
 - (6) Statements, waivers, affidavits, supporting waivers, and releases of lien from such persons and in such form as may be required by CTIC for the purpose of providing the title insurance coverage specified in this Agreement covering the current disbursement.
- C. At the time of each disbursement by Escrow Trustee, subsequent to the issuance of Policy, Escrow Trustee shall furnish, or be prepared to furnish to Lender, CTIC Date Down Endorsement 10 and Interim Mechanics' Lien Endorsement 10A covering the current disbursement.

ARTICLE 4: General Conditions

- A. At any time prior to the commencement of disbursement of funds hereunder, Escrow Trustee shall have the right to notify Lender that CTIC declines any risk offered for insurance under the commitment for title insurance aforesaid. Whereupon Escrow Trustee shall return to the parties any documents and/or funds in Escrow Trustee's possession relating to the Loan.

Where, after the first disbursement of funds by Escrow Trustee, a further title search by CTIC reveals a subsequently arising title matter which gives rise to a title exception over which CTIC is unwilling to insure, Escrow Trustee will notify the Lender and may discontinue disbursement until the exception has been disposed of to the satisfaction of the Lender.

- B. If at any time during the course of construction the total of the unpaid disclosed cost of construction, as indicated by the construction column totals on the current dated Sworn Owner's Statement furnished Escrow Trustee pursuant to this Article 3.B(1), exceeds the amount of undisbursed mortgage proceeds as calculated by subtracting the total amount of liability taken on the endorsements provided for at Article 3C from the face amount of the mortgage, the Escrow Trustee need not make further disbursements under the terms of this Agreement until the Owner/Borrower has deposited in this Escrow Trust the sum necessary to make the available funds equal to the unpaid disclosed cost of construction. Also, if Escrow Trustee discovers a misstatement in an affidavit furnished by General Contractor or Owner/Borrower, or any inconsistency or contradiction between or among any figure in the Owner/Borrower's Statement, or the General Contractor's statement or any subcontractor's statement, Escrow Trustee may stop disbursement until the misstatement has been corrected. Escrow Trustee may, at its option, verify information submitted by the Owner/Borrower and the contractors or may require the Owner/Borrower to furnish or cause to be furnished verification of contractor amounts by subcontractors or material suppliers. Should lender know that the total of the unpaid disclosed cost of construction exceeds the amount of the undisbursed mortgage proceeds as calculated aforesaid, or learn of discrepancies or inaccuracies in the sworn statements or of services, labor or material being furnished but not reflected on the sworn statements, the lender shall notify Escrow Trustee. Escrow Trustee has no liability hereunder to the Owner/Borrower relating to protection against mechanic's lien claims.
- C. Prior to the final disbursement of the funds hereunder by Escrow Trustee, it is a requirement of this Agreement that CTIC be prepared to furnish a Standard ALTA Loan Policy covering the date of final disbursement, subject to the usual terms and conditions contained in that form of policy and also subject to exceptions as approved heretofore by Lender, together with the above listed endorsements, if any.

All required documentation must be submitted to Escrow Trustee and approved by CTIC prior to the final disbursement of Trust deposits by Escrow Trustee.

- D. The functions and duties assumed by Escrow Trustee include only those described in this Agreement and Escrow Trustee is not obligated to act except in accordance with the terms and conditions of this Agreement. Escrow Trustee does not insure that the building will be completed, nor does it insure that the building, when completed, will be in accordance with plans and specifications, nor that sufficient funds will be available for completion, nor does it make the certifications of the Inspector/Architect its own, nor does it assume any liability for same other than procurement as one of the conditions precedent to each disbursement.

Escrow Trustee has no liability for loss caused by an error in the certification furnished it hereunder as to work in place.

Escrow Trustee shall not be responsible for any loss of documents while such documents are not in its custody. Documents deposited in the United States Mail shall not be construed as being in custody of Escrow Trustee.

In the event of default as declared by the Lender and/or foreclosure of the mortgage by the Lender, Escrow Trustee shall have the right to discontinue further disbursements under this Agreement.

N.B.: Title and construction escrow charges will be billed at the time the first draw request is submitted. Payment is to be made before the second draw request is processed. In the event title and escrow charges are not paid as required, CT&T Co. may terminate this Agreement upon thirty (30) days' written notice to Borrower and Lender.

The parties acknowledge that beginning after a period of one year from the date of this agreement, Chicago Title and Trust Company will impose an administrative maintenance fee (quarterly, semi-annually, or annually) equivalent to the fee set forth on the Company's then current rate schedule.

This fee may be deducted from the outstanding escrow balance or billed to:

OWNER

Owner/Borrower or Lender may direct Escrow Trustee to invest trust deposits; provided, however, that such direction shall be in writing, contain the consent of all other parties to this Escrow Trust, and be accompanied by the taxpayer's identification number and such investment forms as may be required. Escrow Trustee will, upon request, furnish information concerning procedures and fee schedules for investment.

Except as to deposits of funds for which escrow trustee has received express written direction concerning investment or other handling, the parties hereto direct the escrow trustee NOT to invest any funds deposited by the parties under the terms of this escrow and waive any rights which they may have under Section 2-8 of the Corporate Fiduciary Act (205 ILCS 620/2-8) to receive interest on funds deposited hereunder. In the absence of an authorized direction to invest funds, the parties hereto agree that the escrow trustee shall be under no duty to invest or reinvest any such funds at any time held by it hereunder; and, further, that escrow trustee may commingle such funds with other deposits or with its own funds in the manner provided for the administration of funds under said Section 2-8 and may use any or all of such funds for its own benefit without obligation to any party for interest or earnings derived thereby, if any. Provided, however, nothing herein shall diminish escrow trustee's obligation to apply the full amount of such funds in accordance with the terms of these escrow instructions.

In the event the Escrow Trustee is requested to invest deposits hereunder, Chicago Title and Trust Company is not to be held responsible for any loss of principal or interest which may be incurred as a result of making the investments or redeeming said investment for the purposes of this escrow trust.

- E. In the event that the Owner/Borrower has engaged the services of a "Construction Manager" in lieu of a "General Contractor," as noted in Article 1 hereof, then all references contained in this Agreement to "General Contractor" are hereby deleted and "Construction Manager" is hereby substituted therefor. In the event that the Owner/Borrower has engaged the services of both a "Construction Manager" and one or more "General Contractors," as noted in Article 1 hereof, then all references contained in Article 3 of this Agreement to "General Contractor" are hereby deleted and the following is hereby substituted therefor: "Construction Manager" and the "General Contractor(s)."
- F. The undersigned agree that this Agreement is not intended by any of the undersigned to give any benefits, rights, privileges, actions or remedies to any person, partnership, firm or corporation other than Escrow Trustee, Lender, and Owner/Borrower as a third party beneficiary or otherwise under any theory of law.

F. The undersigned agree that this Agreement is not intended by any of the undersigned to give benefits, rights, privileges, actions or remedies to any person, partnership, firm or corporation other than Escrow Trustee, Lender, and Owner / Borrower as a third party beneficiary or otherwise under any theory of law.

In Witness Whereof, the undersigned have executed this Agreement this _____ day of _____, A.D. _____.

Owner / Borrower: Theus Property Holdings, LLC

By: _____

Lender: Bridgeview Bank Group

By: _____

Escrow Trustee: Chicago Title and Trust Company

By: _____

(Authorized Signatory)

The undersigned has received and reviewed the foregoing Agreement and acknowledges that _____ is neither a party to the said Agreement, nor does that Agreement confer any benefits, rights, privileges, actions or remedies to any persons, partnership, firm or corporation other than Escrow Trustee, Lender, and Owner / Borrower under a third party beneficiary theory or otherwise under any theory of law.

For the General Contractor

For the Construction Manager

EXHIBIT "A"

(LEGAL DESCRIPTION)

LOTS 18 AND 19 IN THE RESUBDIVISION OF LOTS 206 TO 227 AND VACATED ALLEY ADJOINING SAID LOTS IN WILLIAM DEERING'S SURREN DEN SUBDIVISION IN THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT G

PERMITTED LIENS

1. Liens or encumbrances against the Property:

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

2. Liens or encumbrances against the Developer or the Project, other than liens against the Property, if any: None.

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT H-1

PROJECT BUDGET

See attached.

Project: Uptown Broadway Building
 Address: 4703-13 North Broadway Street, Chicago Illinois

BUDGET

Date: 11.26.2007

* = This needs to be verified

HARD COSTS

Demolition	\$275,874.00
Site Excavation	\$7,500.00
Concrete	\$119,189.00
Masonry	\$60,730.00
Structural Steel	\$208,997.00
Rough Carpentry	\$54,810.00
Roofing	\$107,990.00
Doors, Frames and Hardware	\$31,454.00
Glass and Glazing	\$545,000.00
Drywall and Taping	\$185,362.00
Ceramic Tile	\$28,323.00
Terra Cotta	\$701,196.00
Marble	\$85,297.00
Painting	\$86,391.00
Toilet Partitions	\$15,485.00
Elevators and Lifts	\$95,934.00
Fire Sprinkler Systems	\$26,670.00
Plumbing	\$243,989.00
HVAC	\$231,760.00
Electrical	\$230,571.00
Total Direct Costs	\$3,342,522.00
Initial General Conditions	\$265,911.00
Additional General Conditions	\$111,104.00
Less \$10,000.00 for Permit	(\$10,000.00)
Sub-total	\$3,709,537.00
Initial Contingency	\$119,507.00
Additional Contingency	\$273,704.00
Sub-total	\$4,102,748.00
5% Overhead	\$205,137.00
Sub-total	\$4,307,885.00
Asbestos Abatement	\$39,400.00
TOTAL HARD COSTS	\$4,347,285.00

SOFTS COSTS

Broker Commission	\$119,712.00
Legal & Accounting	\$72,000.00
Title Survey	\$5,000.00
Architect & Engineers	\$115,560.00
Construction Loan Costs*	\$20,768.00
Real Estate Taxes	\$60,000.00
Insurance	\$72,000.00
Permit Fees	\$16,795.00
Construction Period Utilities	\$48,620.00
Appraisal	\$2,000.00
Transfer Tax	\$10,500.00
Developer Fee	\$0.00
Miscellaneous:	
CTA Easement 2006	\$3,300.00
CTA Easement 2007	\$3,300.00
Environmental Evaluation	\$3,650.00
Consultant (J. Payne)	\$20,000.00
NexGen Advisors	\$7,960.00
Estimated Soft Costs:	\$581,165.00
Interest during construction*	\$313,400.00
Estimated total HARD and SOFT Costs	\$5,241,850.00
Acquisition	\$1,400,000.00
Estimated Total Project Costs	\$6,641,850.00
EXCLUSIONS	
Façade Investigation	\$8,640.00
Façade Structural Report	\$17,000.00
Façade restoration	\$473,420.00
Storefront restoration	\$356,000.00
Total Exclusions	\$855,060.00
Estimated Total Project Costs	\$6,641,850.00
Exclusions	(\$855,060.00)
TIF Estimated Total Project Costs	\$5,786,790.00

MBE / WBE BUDGET

TRADE	COST	MBE/WBE
Demolition	\$275,874.00	\$215,425.00 WBE
Site Excavation	\$7,500.00	
Concrete	\$119,189.00	
Masonry	\$60,730.00	
Structural Steel	\$208,997.00	\$163,260.00 MBE
Rough Carpentry	\$54,810.00	
Roofing	\$107,990.00	\$18,000.00 MBE
Doors, Frames and Hardware	\$31,454.00	
Glass and Glazing	Excluded	
Drywall and Taping	\$185,362.00	\$168,405.00 MBE
Ceramic Tile	\$28,323.00	
Terra Cotta	Excluded	
Marble	\$85,297.00	
Painting	\$86,391.00	\$92,751.00 MBE
Toilet Partitions	\$15,485.00	
Elevators and Lifts	Excluded	
Fire Sprinkler Systems	\$26,670.00	\$6,000.00 MBE
Plumbing	\$243,989.00	
HVAC	\$231,760.00	\$93,640.00 MBE
Electrical	\$230,571.00	
Spray Fireproofing	\$12,000.00	\$12,000.00 MBE
Asbestos Abatement	\$39,400.00	\$25,500.00 MBE
TOTALS	\$2,051,792.00	\$794,981.00

Percentage

WBE TOTAL	\$215,425.00	10.50%
MBE TOTAL	\$579,556.00	28.25%

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT H-2

MBE/WBE BUDGET

See attached

Project: Uptown Broadway Building
 Address: 4703-13 North Broadway Street, Chicago Illinois

BUDGET

Date: 11.26.2007

* = This needs to be verified

HARD COSTS

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Architect & Engineers	\$115,560.00
Construction Loan Costs*	\$20,768.00
Real Estate Taxes	\$60,000.00
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Permit Fees	\$16,795.00
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CTA Easement 2006	\$3,300.00
CTA Easement 2007	\$3,300.00
Environmental Evaluation	\$3,650.00
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Façade Investigation	\$8,640.00
Façade Structural Report	\$17,000.00
Façade restoration	\$473,420.00
Storefront restoration	\$356,000.00
Total Exclusions	\$855,060.00
Estimated Total Project Costs	\$6,641,850.00
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TIF Estimated Total Project Costs	\$5,786,790.00

MBE / WBE BUDGET

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TOTALS	\$2,051,792.00	\$794,981.00

Percentage

WBE TOTAL	\$215,425.00	10.50%
MBE TOTAL	\$579,556.00	28.25%

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT I

APPROVED PRIOR EXPENDITURES

Acquisition	<u>\$1,400,000</u>
Total:	\$1,400,000

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT J

OPINION OF DEVELOPER'S COUNSEL

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

City of Chicago
City Hall, Room 600
121 North LaSalle Street
Chicago, Illinois 60602

Attention: Corporation Counsel

Ladies and Gentlemen:

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

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

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

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

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

In addition to the foregoing, we have examined

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

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

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

Based on the foregoing, it is our opinion that:

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

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

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

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

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

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

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

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

9. The execution, delivery and performance of the Documents by the Developer have not and will not require the consent of any person or the giving of notice to, any exemption by, any registration, declaration or filing with or any taking of any other actions in respect of, any person, including without limitation any court, government or regulatory authority.

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

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

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

This opinion is issued at the Developer's request for the benefit of the City and its counsel, and may not be disclosed to or relied upon by any other person.

Very truly yours,

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT K

PRELIMINARY TIF PROJECTIONS – REAL ESTATE TAXES

See attached.

Thad Wong Project
 4703 - 4715 N. Broadway
 TIF Projections
 Assumptions
 Tab I

Estimated Fair Market Value ("FMV") of Development

Commercial (2nd Floor)	4,300	\$	10	\$	43,000
Commercial (3rd Floor)	4,300	\$	10	\$	43,000
Commercial (Main)	3,581	\$	25	\$	89,525
Basement Commercial	6,900	\$	8	\$	55,200
	<hr/>				
Total	19,081			\$	230,725

EXPENSES

Vacancy Factor - 10%					23,073
Reserves - 1.5%					3,461
Management Fee at 2%					4,615
	<hr/>				
Total Expenses					31,148
	<hr/>				
Net Operating Income					199,577
	<hr/>				
Capitalization Rate					8.5%
Estimated FMV of Commercial Development				\$	2,347,966
	<hr/>				

Existing EAV (1) (3) \$ 46,564

Certified Base EAV (Parcel 14-17-201-004) (2) \$ 94,433

Commercial Property Tax Assessment Rate 38%

Cook County Equalization Factor
 (10-Year Average)

2003	2.2431
2002	2.4598
2001	2.4689
2000	2.3098
1999	2.2235
1998	2.2505
1997	2.1799
1996	2.1489
1995	2.1517
1994	2.1243
1994	2.1135

Property Tax Rate
 (10-Year Average)

2003	6.43%
2002	6.43%
2001	7.28%
2000	7.69%
1999	7.79%
1998	8.54%
1997	8.87%
1996	8.87%
1995	8.84%
1994	9.45%
1994	9.35%
1994	9.42%

Annual Reassessment Growth Rate

2.5%

Reassessment Rate Compounded Every 3 -Years

7.69%

(1) Assumes that only land value remains in existing EAV.

(2) Source: Lawrence/ Broadway TIF Redevelopment Plan and Project

(3) Source: Cook County Assessor

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT L

REQUISITION FORM

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

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

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

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

\$ _____

C. The Developer requests reimbursement for the following cost of TIF-Funded
Improvements:

\$ _____

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

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

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

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

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

[Developer]

By: _____

Name

Title: _____

Subscribed and sworn before me this ____ day of _____
_____.

My commission expires: _____

Agreed and accepted:

Name

Title: _____

City of Chicago

Department of Planning and Development

EXHIBIT M

FORM OF NOTE

REGISTERED
NO. R-1

MAXIMUM AMOUNT
\$ _____

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

TAX INCREMENT ALLOCATION REVENUE NOTE (_____
REDEVELOPMENT PROJECT), [TAXABLE] SERIES [A]

Registered Owner: _____ [Developer]

Interest Rate: _____ per annum

Maturity Date: _____, _____ [twenty years from
issuance date]

KNOW ALL PERSONS BY THESE PRESENTS, that the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before the Maturity Date identified above, but solely from the sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner to pay costs of the Project (as hereafter defined) in accordance with the ordinance hereinafter referred to up to the principal amount of \$ _____ and to pay the Registered Owner interest on that amount at the Interest Rate per year specified above from the date of the advance. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. Accrued but unpaid interest on this Note

shall also accrue at the interest rate per year specified above until paid.

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

This Note is issued by the City in the principal amount of advances made from time to time by the Registered Owner up to \$ _____ for the purpose of paying the costs of certain eligible redevelopment project costs incurred by _____ [Developer] (the "Project"), which were [acquired], [constructed] and [installed] in connection with the development of an approximately [_____ acre/_____ square foot] site/building in the _____ Redevelopment Project Area (the "Project Area") in the City, all in accordance with the Constitution and the laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 et seq.) (the "TIF Act") , the Local Government Debt Reform Act (30 ILCS 350/1 et seq.) and an Ordinance adopted by the City Council of the City on _____, _____ (the "Ordinance"), in all respects as by law required.

The City has assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the TIF Act and the Ordinance, in order to pay the principal and interest of this Note. Reference is hereby made to the aforesaid Ordinance and the Redevelopment Agreement for a description, among others, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to this Note and the terms and conditions under which this Note is issued and secured. **THIS NOTE**

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

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

This Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar in Chicago, Illinois, but only in the manner and subject to the limitations provided in the Ordinance, and upon surrender and cancellation of this Note. Upon such transfer, a new Note of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange herefor. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

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

Pursuant to the Redevelopment Agreement dated as of _____, _____ between the City and the Registered Owner (the "Redevelopment Agreement"), the Registered Owner has agreed to [acquire] and [construct] the Project and to advance funds for the [construction of certain facilities] related to the Project on behalf of the City. The cost of such acquisition and construction in the amount

of \$ _____ shall be deemed to be a disbursement of the proceeds of this Note.

Pursuant to Section 15.02 of the Redevelopment Agreement, the City has reserved the right to [suspend] [terminate] payments of principal and of interest on this Note upon the occurrence of certain conditions, [and the City has reserved the right to offset liquidated damage amounts owed to the City against the principal amount outstanding under this Note]. The City shall not be obligated to make payments under this Note if an Event of Default (as defined in the Redevelopment Agreement), or condition or event that with notice or the passage of time or both would constitute an Event of Default, has occurred. Such rights shall survive any transfer of this Note. The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

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

exceed or violate any constitutional or statutory limitation applicable to the City.

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

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

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

Mayor

(SEAL)
Attest:

City Clerk

**CERTIFICATE
OF
AUTHENTICATION**

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

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

Comptroller
Date:

PRINCIPAL PAYMENT RECORD

DATE OF PAYMENT

PRINCIPAL PAYMENT

PRINCIPAL BALANCE DUE

(ASSIGNMENT)

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

Dated:

Registered Owner

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

Signature Guaranteed:

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

Consented to by:

CITY OF CHICAGO
DEPARTMENT OF PLANNING AND DEVELOPMENT

BY:

ITS:

CERTIFICATION OF EXPENDITURE

(Closing Date)

To: Registered Owner

Re: City of Chicago, Cook County, Illinois (the "City")
\$ _____ Tax Increment Allocation Revenue Note
(_____ Redevelopment Project, [Taxable] Series [A])
(the "Redevelopment Note")

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

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

IN WITNESS WHEREOF, the City has caused this Certification to be signed on its behalf as of (Closing Date).

CITY OF CHICAGO

By: _____
Commissioner
Department of Planning and
Development

AUTHENTICATED BY:

REGISTRAR

THEUS PROPERTY HOLDINGS LLC REDEVELOPMENT AGREEMENT

EXHIBIT N

FORM OF SUBORDINATION AGREEMENT

This document prepared by and after recording return to:
Ann R. Perkins, Esq.
Assistant Corporation Counsel
Department of Law
121 North LaSalle Street, Room 600
Chicago, IL 60602.

SUBORDINATION AGREEMENT

This Subordination Agreement ("Agreement") is made and entered into as of the day of _____, _____ between the City of Chicago by and through its Department of Planning and Development (the "City"), [Name Lender], a [national banking association] (the "Lender").

WITNESSETH:

WHEREAS, Theus Property Holdings, LLC, an Illinois limited liability company (the "Developer") has purchased certain property located within the Lawrence/Broadway Redevelopment Project Area at 4703-17 North Broadway, Chicago, Illinois 60640 and legally described on Exhibit A hereto (the "Property"), in order to rehabilitate an existing 17,000 square foot 3-story building into approximately 6,900 square feet of retail space in the basement, approximately 3,450 square feet of retail space on the first floor, and approximately 4,300 square feet of office space on each of the second and third floors (the "Facility") thereon, which rehabilitation will include installation of new HVAC, electrical and low voltage systems as well as replacement of existing walls and finishes, and historically sensitive exterior rehabilitation of cleaning, repairing and tuckpointing (including the yellow and gray original terra cotta tile), as well as replacing urns along

the west parapet walls and other missing architectural elements with matching reproductions (the Facility and related improvements are collectively referred to herein as the "Project"); and

WHEREAS, as part of obtaining financing for the Project, the Developer ("Borrower") has entered into a certain Construction Loan Agreement dated as of _____ with the Lender pursuant to which the Lender has agreed to make a loan to the Borrower in an amount not to exceed \$ _____ (the "Loan"), which Loan is evidenced by a Mortgage Note and executed by the Borrower in favor of the Lender (the "Note"), and the repayment of the Loan is secured by, among other things, certain liens and encumbrances on the Property and other property of the Borrower pursuant to the following: (i) Mortgage dated _____ and recorded _____ as document number _____ made by the Borrower to the Lender; and (ii) Assignment of Leases and Rents recorded _____ as document number _____ made by the Borrower to the Lender (all such agreements referred to above and otherwise relating to the Loan referred to herein collectively as the "Loan Documents");

WHEREAS, the Developer desires to enter into a certain Redevelopment Agreement dated the date hereof with the City in order to obtain additional financing for the Project (the "Redevelopment Agreement," referred to herein along with various other agreements and documents related thereto as the "City Agreements");

WHEREAS, pursuant to the Redevelopment Agreement, the Developer will agree to be bound by certain covenants expressly running with the Property, as set forth in Sections 8.02, 8.18 and 8.19 of the Redevelopment Agreement (the "City Encumbrances");

WHEREAS, the City has agreed to enter into the Redevelopment Agreement with the Developer as of the date hereof, subject, among other things, to (a) the execution by the Developer of the Redevelopment Agreement and the recording thereof as an encumbrance against the Property; and (b) the agreement by the Lender to subordinate their respective liens under the Loan Documents to the City Encumbrances; and

NOW, THEREFORE, for good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Lender and the City agree as hereinafter set forth:

1. Subordination. All rights, interests and claims of the Lender in the Property pursuant to the Loan Documents are and shall be subject and subordinate to the City Encumbrances. In all other respects, the Redevelopment Agreement shall be subject and subordinate to the Loan Documents. Nothing herein, however, shall be deemed to limit the Lender's right to receive, and the Developer's ability to make, payments and prepayments of principal and interest on the Note, or to exercise its rights pursuant to the Loan Documents except as provided herein.

2. Notice of Default. The Lender shall use reasonable efforts to give to the City, and the City shall use reasonable efforts to give to the Lender, (a) copies of any notices of default which it may give to the Developer with respect to the Project pursuant to the Loan Documents or the City

Agreements, respectively, and (b) copies of waivers, if any, of the Developer's default in connection therewith. Under no circumstances shall the Developer or any third party be entitled to rely upon the agreement provided for herein.

3. Waivers. No waiver shall be deemed to be made by the City or the Lender of any of their respective rights hereunder, unless the same shall be in writing, and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the City or the Lender in any other respect at any other time.

4. Governing Law; Binding Effect. This Agreement shall be interpreted, and the rights and liabilities of the parties hereto determined, in accordance with the internal laws and decisions of the State of Illinois, without regard to its conflict of laws principles, and shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the Lender.

5. Section Titles; Plurals. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto. The singular form of any word used in this Agreement shall include the plural form.

6. Notices. Any notice required hereunder shall be in writing and addressed to the party to be notified as follows:

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

With a copy to: City of Chicago Department of Law
 121 North LaSalle Street, Room 600
 Chicago, Illinois 60602
 Attention: Finance and Economic
 Development Division

If to the Lender: _____

 Attention: _____

With a copy to: _____

 Attention: _____

or to such other address as either party may designate for itself by notice. Notice shall be deemed to have been duly given (i) if delivered personally or otherwise actually received, (ii) if sent by overnight delivery service, (iii) if mailed by first class United States mail, postage prepaid, registered or certified, with return receipt requested, or (iv) if sent by facsimile with facsimile confirmation of receipt (with duplicate notice sent by United States mail as provided above). Notice mailed as provided in clause (iii) above shall be effective upon the expiration of three (3) business days after its deposit in the United States mail. Notice given in any other manner described in this paragraph shall be effective upon receipt by the addressee thereof; provided, however, that if any notice is tendered to an addressee and delivery thereof is refused by such addressee, such notice shall be effective upon such tender.

7. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one instrument.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, this Subordination Agreement has been signed as of the date first written above.

[LENDER], [a national banking association]

By:

Its: _____

CITY OF CHICAGO

By:

Its: _____ Commissioner,
Department of Planning and
Development

ACKNOWLEDGED AND AGREED TO THIS
___ DAY OF _____, _____

[Developer], a _____

By:

Its:

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY THAT _____, personally known to me to be the _____ Commissioner of the Department of Planning and Development of the City of Chicago, Illinois (the "City") and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such _____ Commissioner, (s)he signed and delivered the said instrument pursuant to authority, as his/her free and voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this ____ day of _____, _____.

Notary Public

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, _____, a notary public in and for the said County, in the State
aforesaid, DO HEREBY CERTIFY THAT _____, personally known to me to be the
_____ of [Lender], a _____, and personally known to me to be
the same person whose name is subscribed to the foregoing instrument, appeared before me this day
in person and acknowledged that he/she signed, sealed and delivered said instrument, pursuant to the
authority given to him/her by Lender, as his/her free and voluntary act and as the free and voluntary
act of the Lender, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this ____ day of
_____, ____.

Notary Public

My Commission Expires

(SEAL)

EXHIBIT A - LEGAL DESCRIPTION
