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**LORETTO HOSPITAL**  
**REDEVELOPMENT AGREEMENT**

BY AND BETWEEN

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THE CITY OF CHICAGO

AND

LORETTO HOSPITAL

This agreement was prepared by  
and after recording return to:  
Adam R. Walker, 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
Exhibit B	*Property
Exhibit C	*TIF-Eligible Improvements
Exhibit D#	Harrison/Central Redevelopment Plan
Exhibit E#	Construction Contract
Exhibit F	n/a
Exhibit G	*Permitted Liens
Exhibit H-1	*Project Budget
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Exhibit I#	Approved Prior Expenditures
Exhibit J	Opinion of Developer's Counsel
Exhibit K	n/a
Exhibit L-1	Initial City Funds Requisition Form
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Exhibit L-3	Patient Rooms City Funds Requisition Form
Exhibit M	*Form of City Note (and Certificate of Expenditure)
Exhibit N	*Public Benefits Program
Exhibit O#	Form of Subordination Agreement
Exhibit P#	Form of Payment and Performance Bond

\* indicates which exhibits are to be recorded.

# indicates which exhibits will not be included in the ordinance packet

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

### LORETTO HOSPITAL REDEVELOPMENT AGREEMENT

This Loretto Hospital Redevelopment Agreement (this “**Agreement**”) is made as of this  
10<sup>th</sup> day of November, 2009, by and between the City of  
Chicago, an Illinois municipal corporation (the “**City**”), through its Department of Community  
Development (“**DCD**”), and Loretto Hospital, an Illinois not for profit corporation (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 July 26, 2006: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Harrison/Central Tax Increment Financing Redevelopment Project Area;" (2) "An Ordinance of the City of Chicago, Illinois Designating the Harrison/Central Redevelopment Project Area as a Tax Increment Financing District;" and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Harrison/Central Redevelopment Project Area" (the "**Harrison/Central TIF Adoption Ordinance**") (items (1)-(3) collectively referred to herein as the "**Harrison/Central TIF Ordinances**," the redevelopment plan approved by the Harrison/Central TIF Ordinances is referred to herein as the "**Harrison/Central Redevelopment Plan**" and the redevelopment project area created by the Harrison/Central TIF Ordinances is referred to herein as the "**Harrison/Central Redevelopment Area**" and is legally described in Exhibit A hereto).

To induce redevelopment pursuant to the Act, the City Council adopted the following ordinances on February 5, 1998: (1) "An Ordinance of the City of Chicago, Illinois Approving a Tax Increment Redevelopment Plan for the Roosevelt/Cicero Redevelopment Project Area;" (2) "An Ordinance of the City of Chicago, Illinois Designating the Roosevelt/Cicero Redevelopment Project Area as a Tax Increment Financing District;" and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Roosevelt/Cicero Redevelopment Project Area" (the "**Roosevelt/Cicero TIF Adoption Ordinance**") (items (1)-(3) collectively referred to herein as the "**Roosevelt/Cicero TIF Ordinances**," the redevelopment plan approved by the Roosevelt/Cicero TIF Ordinances is referred to herein as the "**Roosevelt/Cicero Redevelopment Plan**" and the redevelopment project area created by the Roosevelt/Cicero TIF Ordinances is referred to herein as the "**Roosevelt/Cicero Redevelopment Area**").

To induce redevelopment pursuant to the Act, the City Council adopted the following ordinances on September 29, 1999: (1) "An Ordinance of the City of Chicago, Illinois Approving a Tax Increment Redevelopment Plan for the Madison/Austin Corridor Redevelopment Project Area;" (2) "An Ordinance of the City of Chicago, Illinois Designating the Madison/Austin Corridor Redevelopment Project Area as a Tax Increment Financing District;" and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Madison/Austin Corridor Redevelopment Project Area" (the "**Madison/Austin Corridor TIF Adoption Ordinance**") (items (1)-(3) collectively referred to herein as the "**Madison/Austin Corridor TIF Ordinances**," the redevelopment plan approved by the Madison/Austin Corridor TIF Ordinances is referred to herein as the "**Madison/Austin Corridor Redevelopment Plan**" and the redevelopment project area created by the Madison/Austin Corridor TIF Ordinances is referred to herein as the "**Madison/Austin Corridor Redevelopment Area**"). The City Council adopted an ordinance on November 3,



2004 amending the Madison/Austin Redevelopment Plan.

The Harrison/Central Redevelopment Area is either contiguous to, or is separated only by a public right of way from, the Roosevelt/Cicero Redevelopment Area and the Madison/Austin Corridor Redevelopment Area.

**D. The Project:** The Developer owns certain property located within the Harrison/Central Redevelopment Area at 645 South Central Avenue, Chicago, Illinois 60644 and legally described on **Exhibit B** hereto (the “**Property**”), which is improved with a large hospital structure (the “**Facility**”), operated by Developer, which was originally built in 1939 and added to in 1969 and 1985.

Within the time frames set forth in **Section 3.01** hereof, the Developer shall commence and complete:

- (a) the renovation and expansion of the existing Emergency Department within the Facility by i) rehabilitating the entire approximately 5,000 square foot Emergency Department space, ii) constructing on the Property an approximately 4,375 square foot addition to the existing Emergency Department, with a Green Roof (as defined herein) covering at least 50% of the available square footage of the roof thereon, iii) increasing the number of Emergency Department examination stations to 14 from 10, iv) configuring the stations in a “racetrack” layout for greater efficiency, v) creating a new ambulance entrance, and vii) creating a dedicated parking area for the families of Emergency Department patients (together, the “**Component One Improvements**”); and
- (b) other rehabilitations and upgrades, including i) complete remodeling of all 100 existing patient rooms (each, a “**Patient Room**”), ii) remodeling the recovery room, iii) upgrading the fire sprinkler system, iv) expanding the addiction treatment facilities, and v) replacing and repairing existing electrical and sewer equipment (together, the “**Component Two Improvements**”).

The Component One Improvements and the Component Two Improvements (including but not limited to those TIF-Eligible 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. Harrison/Central Redevelopment Plan:** The Project will be carried out in accordance with this Agreement and the Harrison/Central Redevelopment Plan attached hereto as **Exhibit D**.

**F. City Incremental Taxes:** Pursuant to Section 5/11-74.4-8(b) of the Act and the

respective TIF Adoption Ordinances, incremental ad valorem taxes which, pursuant to 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 respective TIF Funds established to pay Redevelopment Project Costs and obligations incurred in the payment thereof, may be used to pay all or a portion of the TIF-Eligible Costs of the Project. Such taxes collected from the Harrison/Central Redevelopment Area shall be known as the “**Harrison/Central Incremental Taxes;**” those collected from the Madison/Austin Corridor Redevelopment Area shall be known as the “**Madison/Austin Corridor Incremental Taxes;**” and those collected from the Roosevelt/Cicero Redevelopment Area shall be known as the “**Roosevelt/Cicero Incremental Taxes**” (collectively, the Harrison/Central Incremental Taxes, Madison/Austin Corridor Incremental Taxes, and Roosevelt/Cicero Incremental Taxes shall be known as “**Incremental Taxes**”).

**G. Transfer Rights:** Pursuant to 65 ILCS 5/11-74.4-4(q) of the Act, the City can use Incremental Taxes from one redevelopment project area for eligible redevelopment project costs in another redevelopment project area that is either contiguous to, or is separated only by a public right of way from, the redevelopment project area from which those Incremental Taxes is received (the “**Transfer Rights**”). To the extent required by the City to pay its City Funds obligations (as such term is defined herein) to Developer under this Agreement from time to time (including, but not limited to, the Initial City Funds Direct Payment), the City, as more particularly hereinafter provided, shall exercise its Transfer Rights pursuant to the Act and transfer Madison/Austin Corridor Incremental Taxes from the Madison/Austin Corridor Redevelopment Area and Roosevelt/Cicero Incremental Taxes from the Roosevelt/Cicero Redevelopment Area into the Harrison/Central Redevelopment Project Area TIF Fund (as defined herein).

**H. 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 to pay for or reimburse the Developer for the costs of the TIF-Eligible Improvements pursuant to the terms and conditions of this Agreement and the City Note.

**J. Pass-Through Financing:** The parties acknowledge that in May 2007 the parties closed on a \$5,000,000 grant agreement pursuant to which the City passed certain Illinois Department of Commerce and Economic Opportunity grant funds through to the Developer to assist in certain pre-construction planning, site preparation/demolition work, and initial construction management activities concerning the Project (the “**Grant-Funded Costs**”); and the parties further acknowledge that none of those costs shall be considered TIF-Eligible Improvements under this Agreement.

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

## SECTION 1. RECITALS

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

## SECTION 2. DEFINITIONS

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

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

“**Actual residents of the City**” shall have the meaning set forth in Section 10.02 hereof.

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

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

“**Annual Compliance Report**” shall mean a signed report from the Developer to the City (a) itemizing each of the following Developer obligations under the Agreement during the preceding calendar year:

- (1) evidence of continuously occupying and operating the Facility as an integral part of its hospital building/campus (Section 8.06);
- (2) delivery of Financial Statements and unaudited financial statements (Section 8.13);
- (3) delivery of updated insurance certificates, if applicable (Section 8.14);
- (4) evidence of payment of Non-Governmental Charges, if applicable (Section 8.15);
- (5) evidence of having undertaken the Public Benefits program set forth on Exhibit N (Section 8.20);
- (6) evidence of continuing accreditation under one or the other of either the Developer’s current JCAHO certificate or, if it later obtains accreditation under the Osteopathic HFAP, that certificate (Section 8.21); and
- (7) compliance with all other executory provisions of the RDA;

(b) certifying the Developer’s compliance or noncompliance with such obligations; (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance; and (d) certifying that the Developer is not in default with respect to any provision of the Agreement, the agreements evidencing the Lender Financing, if any, or any related agreements. The Parties acknowledge that this Annual Compliance Report is not intended to duplicate the reporting requirements of the pre-Certificate build-out employment and progress report that is described in Section 8.07 hereof.

**“Available Incremental Taxes”** shall mean an amount equal to all the Harrison/Central Incremental Taxes on deposit in the Harrison/Central Redevelopment Project Area TIF Fund, plus any amounts of Madison/Austin Corridor Incremental Taxes and/or Roosevelt/Cicero Incremental Taxes which may have been transferred from time to time into said fund pursuant to the Transfer Rights and this Agreement, all as of the date any payment is made under this Agreement to Developer (regardless whether such payment is made directly to Developer or to the then-current holder of the City Note), less the sum of (i) the Harrison/Central Administration Fee arising during the same calendar year, and (ii) the amount of Annual Incremental Taxes that are necessary to pay principal of and interest on the NIF Note Obligations arising during the same calendar year.

**“Business Relationship”** shall have the meaning as set forth in **Section 18.22** hereof.

**“Certificate”** shall mean the final Certificate of Completion of Construction as 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”** shall mean the City of Chicago, Illinois.

**“City Contract”** shall have the meaning set forth in **Section 8.01(l)** hereof.

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

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

**“City Note”** shall mean the City of Chicago Tax Increment Allocation Revenue Note (Harrison/Central Redevelopment Project Area) (Loretto Hospital Project), Taxable Series 2009, to be in the form attached hereto as **Exhibit M**, in the maximum principal amount of \$3,000,000, and with a maturity date of March 1, 2020, issued by the City to the Developer on or as of the date hereof. The City Note shall bear interest at rates and upon such terms as set forth in **Section 4.03(d)** hereof.

**“City Note Payment Requisition Form”** shall mean the document, in the form attached hereto as **Exhibit L-2**, to be delivered by the Developer to DCD pursuant to **Section 4.03(e)** of this Agreement.

**“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.

“**Component One Improvements Completion Certificate**” shall mean the interim certificate of completion as described in **Section 7.01** hereof.

“**Construction Contract**” shall mean that certain contract or contracts, 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 or portion thereof.

“**Corporation Counsel**” shall mean the City’s Office of Corporation Counsel.

“**DCD**” shall have the meaning as set forth in the Recitals hereof.

“**Developer**” shall have the meaning as set forth in the Recitals hereof.

“**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, Section 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)**.

“**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.

“**General Contractor**” shall mean Bulley & Andrews/UJAMMAA Joint Venture, the general contractor(s) hired by the Developer pursuant to **Section 6.01**.

“**Grant-Funded Costs**” shall have the meaning set forth in the Recitals hereof.

“**Green Roof**” shall mean a four-inch deep, GreenGrid-brand, modular system consisting of a root anti-penetration layer, a drainage layer, a water filter mat, a growing medium and drought-tolerant plants, that covers approximately 74% (1,300 square feet) of the approximately 1,750 net square feet of available roof on the addition to the existing Emergency Department (which addition is a part of the Project), and that is designed to be low-maintenance and to provide living plants thereon for at least five years after initial installation thereof.

“**Harrison/Central Incremental Taxes**” shall have the meaning set forth in the Recitals hereof.

“**Harrison/Central Redevelopment Area**” shall have the meaning set forth in the Recitals hereof.

“**Harrison/Central Administrative Fee**” shall mean ten percent (10%) of the Available Incremental Taxes.

“**Harrison/Central Redevelopment Area TIF Fund**” shall mean the special tax allocation fund created by the City in connection with the Harrison/Central Redevelopment Area into which the Harrison/Central Incremental Taxes will be deposited, and into which certain Madison/Austin Corridor Incremental Taxes and/or Roosevelt/Cicero Incremental Taxes may be deposited by the City pursuant to its exercise of its Transfer Rights.

“**Harrison/Central Redevelopment Plan**” shall have the meaning set forth in the Recitals hereof.

“**Harrison/Central TIF Adoption Ordinance**” shall have the meaning set forth in the Recitals hereof.

“**Harrison/Central TIF Ordinances**” shall have the meaning set forth in the Recitals hereof.

“**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.

“**Human Rights Ordinance**” shall have the meaning set forth in **Section 10.01** hereof.

“**Incremental Taxes**” shall have the meaning set forth in the Recitals hereof.

“**Indemnitee**” shall have the meaning set forth in **Section 13.01** hereof.

“**Initial City Funds Direct Payment**” shall have the meaning set forth in **Section 4.03(c)** hereof.

“**Initial City Funds Requisition Form**” shall mean the document, in the form attached hereto as **Exhibit L-1**, to be delivered by the Developer to DCD pursuant to **Section 4.03(c)** of this Agreement.

“**JCAHO**” shall mean the Joint Commission for the Accreditation of Healthcare Organizations.

“**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.

“**Madison/Austin Corridor Incremental Taxes**” shall have the meaning set forth in the Recitals hereof.

“**Madison/Austin Corridor Redevelopment Area**” shall have the meaning set forth in the Recitals hereof.

“**Madison/Austin Corridor Redevelopment Plan**” shall have the meaning set forth in the Recitals hereof.

“**Madison/Austin Corridor TIF Adoption Ordinance**” shall have the meaning set forth in the Recitals hereof.

“**Madison/Austin Corridor TIF Ordinances**” shall have the meaning set forth in the Recitals hereof.

“**MBE(s)**” shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City’s Department of Procurement Services, or otherwise certified by the City’s Department of Procurement Services as a minority-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

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

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

**“Municipal Code”** shall mean the Municipal Code of the City of Chicago.

**“NIF Note Obligations”** shall mean those repayment terms and conditions stated in that Tax Increment Allocation Revenue Note (Harrison/Central Redevelopment Project Area) Taxable Series 2007 made by the City to Local Initiatives Support Corporation on April 12, 2007, and the City ordinance referenced therein.

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

**“Osteopathic HFAP”** shall mean the Healthcare Facilities Accreditation Program (HFAP) of the American Osteopathic Association.

**“Patient Room”** shall have the meaning set forth in the Recitals hereof.

**“Patient Rooms City Funds Requisition Form”** shall mean the document, in the form attached hereto as **Exhibit L-3**, to be delivered by the Developer to DCD pursuant to **Section 4.03(f)** of this Agreement.

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

**“Permitted Mortgage”** shall have the meaning set forth in **Section 16** hereof.

**“Plans and Specifications”** shall mean the 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 4.04** hereof.

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

**“Project Budget”** shall mean the budget attached hereto as **Exhibit H-1**, showing the total cost of the Project by line item, furnished by the Developer to DCD, in accordance with **Section 3.03** hereof.

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

**“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 Harrison/Central Redevelopment Plan or otherwise referenced in the Harrison/Central Redevelopment Plan.



**“Roosevelt/Cicero Incremental Taxes”** shall have the meaning set forth in the Recitals hereof.

**“Roosevelt/Cicero Redevelopment Area”** shall have the meaning set forth in the Recitals hereof.

**“Roosevelt/Cicero Redevelopment Plan”** shall have the meaning set forth in the Recitals hereof.

**“Roosevelt/Cicero TIF Adoption Ordinance”** shall have the meaning set forth in the Recitals hereof.

**“Roosevelt/Cicero TIF Ordinances”** shall have the meaning set forth in the Recitals hereof.

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

**“State”** shall mean the State of Illinois.

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

**“Term of the Agreement”** shall mean the period of time commencing on the Closing Date and ending on the date on which the Harrison/Central Redevelopment Area is no longer in effect (through and including December 31, 2029).

**“TIF-Eligible Improvements”** shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Harrison/Central Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. TIF-Eligible Improvements shall not include any Grant-Funded Costs. **Exhibit C** lists the TIF-Eligible Improvements for the Project.

**“Title Company”** shall mean Tigor Title Insurance Co.

**“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.

**“Transfer Rights”** shall have the meaning set forth in the Recitals hereof.

**“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.** The Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.17** hereof: (i) commence construction of the Project no later than June 1, 2008; and (ii) complete construction thereof no later than December 31, 2013.

**3.02 Scope Drawings and Plans and Specifications.** The Developer has delivered the Scope Drawings and Plans and Specifications for the Component One Improvements to DCD and DCD has approved same. Prior to commencing work on the Component Two Improvements, the Developer will deliver the Scope Drawings and Plans and Specifications for the Component Two Improvements to DCD and will obtain DCD’s approval of same. After such initial approvals, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DCD as a Change Order pursuant to **Section 3.04** hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Harrison/Central 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 DCD, and DCD has approved, a Project Budget showing total costs for the Project in an amount not less than \$23,592,000. The Developer hereby certifies to the City that (a) the City Funds, together with Lender Financing and Equity described in **Section 4.02** hereof, shall be sufficient to complete the Project; and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DCD certified copies of any Change Orders with respect to the Project

Budget for approval pursuant to **Section 3.04** hereof.

**3.04 Change Orders.** Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DCD concurrently with the progress reports described in **Section 3.07** hereof; provided, that any Change Order (or combination of Change Orders) relating to any of the following must be submitted by the Developer to DCD for DCD's prior written approval: (a) a reduction in the square footage of the Project; (b) a change in the use of the Property to a use other than its current ones; (c) a delay in the completion of the Project by more than 90 days past the completion date set forth in **Section 3.01** above; (d) a change in the Green Roof features of the Project; or (e) an increase or decrease in the Project Budget by more than 10% from the figure set forth in **Section 3.02** above. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DCD's written approval (to the extent required in this section). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer.

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

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

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

**3.08 Inspecting Agent or Architect.** An independent agent or architect (other than the

Developer's architect) approved by DCD shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DCD, prior to requests for disbursement for costs related to the Project hereunder.

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

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

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

**3.12 Permit Fees.** In connection with the Project, 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 \$23,592,000, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity and grants	\$17,092,000 or more
Lender Financing	\$6,500,000 or less
<b>ESTIMATED TOTAL</b>	<b>\$23,592,000</b>

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

**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-Eligible Improvements that constitute Redevelopment Project Costs (and shall not pay for Grant-Funded Costs). Exhibit C sets forth, by line item, the TIF-Eligible 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)), contingent upon receipt by the City of documentation satisfactory in form and substance to DCD evidencing such cost and its eligibility as a Redevelopment Project Cost. Except as set forth elsewhere in this Section 4.03, City Funds shall not be paid to the Developer hereunder prior to the issuance of the Certificate.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to 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-Eligible Improvements or to pay principal of and interest on the City Note:

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Available Incremental Taxes	\$7,500,000

provided, however, that if actual total costs of the Project are less than \$23,592,000, then the Maximum Amount of City Funds provided under this Redevelopment Agreement shall be reduced by 50 cents for every one dollar reduction in actual total costs of the Project below \$23,592,000.

Only to the extent necessary to supplement the amount of Harrison/Central Incremental Taxes on deposit in the Harrison/Central Redevelopment Project Area TIF Fund for the payment of the City’s City Funds obligations under this Agreement, the City shall use its Transfer Rights as follows:

transfer equal amounts of Madison/Austin Corridor Incremental Taxes, if any, and Roosevelt/Cicero Incremental Taxes, if any, into the Harrison/Central Redevelopment Project Area TIF Fund.

(c) Initial City Funds Direct Payment. Within 30 days after the Closing Date of this Agreement, the City shall pay Developer an amount of City Funds not to exceed \$500,000 (the “Initial City Funds Direct Payment”) for Prior Expenditures (as defined in Section 4.04 herein) that were incurred by the Developer solely for the purpose of purchasing from a consultant advice and assistance for the establishment of the Harrison/Central Redevelopment Area, and provided that the Developer has provided DCD with the Initial City Funds Requisition Form on the Closing Date in the form set forth in Exhibit L-1 hereto documenting same, along with the other documentation described therein, all completed in a manner satisfactory to DCD in its sole

discretion.

(d) Issuance of City Note; Increase in Amount of Principal Balance; Interest Rate.

Subject to the terms and conditions of this Agreement, the City hereby agrees to issue a City Note having a maximum principal of \$3,000,000 to the Developer on the Closing Date to reimburse Developer for the costs of certain TIF-Eligible Improvements. The City Note shall not have a debt service schedule.

The City shall, on the Closing Date and thereafter as Certificates of Expenditure are issued, set the initial principal balance and increase the principal balance of the City Note as indicated on the following schedules, subject to the maximum amount of the City Note set forth above (\$3,000,000):

Initial Balance

the dollar value of all Prior Expenditures that are TIF-Eligible Improvements, less the amount of the Initial City Funds Direct Payment (e.g., the Initial Balance will likely be \$0)

Increases in Balance

the aggregate dollar value of all Certificates of Expenditure issued by the City in connection with this City Note that reflect Developer's TIF-Eligible costs incurred solely for the Component One Improvements

Interest on the outstanding and unpaid principal of the City Note shall accrue and compound (at the rate set forth in the City Note) starting on the date that the Component One Improvements Completion Certificate is issued.

The interest rate for the City Note shall be set upon its issuance (the Closing Date) and shall not exceed the following per annum based on a 360 day year:

the lesser of (i) 8.5%, or (ii) the median value of 10-year Treasury Notes as published in the Federal Reserve Statistical Release H-15 for the 15 business days prior to the date the rate is set, plus 250 Basis Points

Any interest that has accrued under the City Note and remains unpaid following a scheduled payment date shall accrue interest per annum at the scheduled interest rate, but such interest on interest shall not be deemed to increase the principal of the City Note.

(e) Payment Obligations on City Note; Prepayment thereof allowed. Payments on the City Note, if any, shall be made once annually by the City starting on the next March 1 to occur following the City's receipt, not later than January 1, of a properly completed City Note Payment

Requisition Form in the form set forth in Exhibit L-2 hereto, along with the other documentation described therein. **Developer shall not tender any City Note Payment Requisition Form to the City prior to the issuance of the Certificate.**

Payments on the City Note shall continue until the City Note is fully paid or discharged, subject to the terms, conditions and limitations with respect thereto contained in the City Note and in this Agreement. Payments on the City Note shall first be applied to unpaid interest, if any, then to current interest, if any, and then to principal.

The City may pre-pay, in whole or in part, the City Note at any time, but in the sequence and priority in which it becomes payable, using any Available Incremental Taxes or other monies available to the City.

(f) Patient Rooms City Funds Direct Payments. The City hereby agrees to pay Developer an amount of City Funds not to exceed \$4,000,000 to pay or reimburse Developer for its rehabilitation of the 100 Patient Rooms, which work is a subset of the Component Two Improvements. Commencing on the month following the calendar quarter in which the first Patient Rooms are fully rehabilitated, the Developer shall provide DCD with a Patient Rooms City Funds Requisition Form in the form set forth in Exhibit L-3 hereto, along with the other documentation described therein (including, but not limited to, evidence that the cumulative Patient Rooms City Funds Direct Payments made to date have not exceeded 31.78% of Developer's cumulative costs incurred and paid for Component Two Improvements to date), not more often than once each calendar quarter (e.g., in April for Patient Rooms that have been refurbished during the immediately preceding January to March period), to demonstrate its completion of the rehabilitation of Patient Rooms.

Within 30 days of DCD's acknowledgment of the sufficiency and completeness of a particular Patient Rooms City Funds Requisition Form, the City shall pay Developer not to exceed \$40,000 per fully-rehabilitated Patient Room, and not to exceed \$200,000 per quarterly payment (e.g., five Patient Rooms). If a given Patient Rooms City Funds Requisition Form shows the completion of more than five Patient Rooms, then the surplus shall be credited for the next quarterly Patient Rooms City Funds Direct Payment period. No Patient Rooms City Funds Direct Payments shall be made following the City's issuance of the Certificate, although the parties anticipate that the final Patient Rooms City Funds Direct Payment will be made simultaneously with the Certificate.

(g) Priority of Payments from Available Incremental Taxes. The priority of payments, if any, of City Funds from Available Incremental Taxes is: first, the Initial City Funds Direct Payment; second, all Patient Rooms City Funds Direct Payments; third, all payments on the City Note.

(h) Unavailability of City Funds. The City is not obligated to pay the Developer in any year in which there are no City Funds. If, at the end of the Term of the Agreement, any

outstanding obligation of City Funds exists (the "Outstanding Amount"), the Outstanding Amount shall be forgiven in full by the Developer, and the City shall have no obligation to pay the Outstanding Amount after the end of the Term of the Agreement.

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

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

**4.06 Cost Overruns.** If the aggregate cost of the TIF-Eligible 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-Eligible Improvements in excess of City Funds and of completing the Project.

**4.07 Certificates of Expenditure.** Certificates of Expenditure, a form of which is attached to the form of Note on Exhibit M hereto, for the purpose of increasing the principal of the City Note shall be issued by the City (provided the Developer has demonstrated the dollar value test set forth below) approximately 60 days after the Closing Date and every 90 days thereafter until the Maximum Amount of the City Note has been reached. The dollar value of each Certificate of Expenditure shall be set by the City and will equal the amount of Equity and Lender Financing demonstrated, to the reasonable satisfaction of the City, to have been expended by the Developer on the TIF-Eligible Improvements incurred **solely for the Component One Improvements** and on no other aspect of the Project over and above the amounts of Equity and Lender Financing that have been accounted for in all prior Certificates of Expenditure, pursuant to the preconditions set forth in the paragraphs below.

Prior to each execution of a Certificate of Expenditure by the City, the Developer shall demonstrate its progress on the Component One Improvements by timely submitting to the City a request for execution of a Certificate of Expenditure, which request shall include: (i)



documentation (including an owner's sworn statement) regarding Developer's then-current expenditures on TIF-Eligible Improvements solely for the Component One Improvements and executed lien waivers for same, which documentation shall be made satisfactory to DCD in its sole discretion, (ii) progress reports containing the information set forth in Section 8.07 herein, and, if required by said Section, (iii) a plan for correcting any compliance shortfall. Delivery by the Developer to DCD of any request for execution by the City of a Certificate of Expenditure hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for execution of a Certificate of Expenditure, that:

- (a) the total amount of the request for Certificate of Expenditure represents the actual amount in TIF-Eligible Improvements, **for only the Component One Improvements** and on no other aspect of the Project, paid to the General Contractor and/or subcontractors, and/or their payees;
- (b) all amounts shown as previous payments on the request for Certificate of Expenditure have been paid to the parties entitled to such payment;
- (c) the Developer has approved all work and materials referenced in the request for Certificate of Expenditure and such work and materials conform to the Plans and Specifications;
- (d) the representations and warranties contained in this Redevelopment Agreement are true and correct and the Developer is in compliance with all covenants contained herein;
- (e) the Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Project which have not been cured or insured over except for the Permitted Liens; and
- (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.

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

**4.08 Conditional Grant.** The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this 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 DCD, and DCD has approved, a Project Budget in accordance with the provisions of Section 3.03 hereof.

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

**5.03 Other Governmental Approvals.** The Developer has secured a building permit from the City of Chicago for the Component One Improvements and has submitted evidence thereof to DCD. Before commencing the Component Two Improvements, the Developer shall secure all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation (including a building permit for the Component Two Improvements) and will have submitted evidence thereof to DCD.

### **5.04 Financing.**

(a) 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 Component One Improvements 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 Component One Improvements.

(b) 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 Component Two Improvements and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing (which the Developer does not presently anticipate requiring), the Developer shall furnish proof to DCD prior to commencing the Component Two Improvements that the proceeds thereof will be available at that time 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 Component Two Improvements.

(c) The Developer has delivered to DCD a copy of the construction escrow agreement, if any, 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 a form acceptable to the City such as the form set forth in Exhibit O hereto, executed on or prior to the Closing Date, which is

to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

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

**5.06 Evidence of Clean Title.** The Developer, at its own expense, has provided the City with searches under the Developer's name 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, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

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

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

**5.09 Opinion of the Developer's Counsel.** On the Closing Date, the Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as Exhibit 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 DCD in its sole discretion of the Prior Expenditures in accordance with the provisions of **Section 4.04** hereof.

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

**5.12 MBE/WBE; Prevailing Wage.** Documentation with respect to current information requested under **Sections 8.07 and 8.09** herein.

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

**5.14 Corporate Documents; Economic Disclosure Statement.** The Developer has provided a copy of its Articles of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and all other states in which the Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; by-laws of the corporation; 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 or recertified as of the Closing Date.

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

## SECTION 6. AGREEMENTS WITH CONTRACTORS

**6.01 Bid Requirement for General Contractor and Subcontractors.** Prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project (or for any Component thereof), the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with, and having an office located in, the City of Chicago, and shall submit all bids received to DCD for its inspection and written approval. (i) For the TIF-Eligible Improvements, the Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the

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

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

**6.03 Performance and Payment Bonds.** Prior to the commencement of any portion of the Project which includes work on the public way, the Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in the form attached as **Exhibit P** hereto. 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 8.09** (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-Eligible Improvements shall be provided to DCD within five (5) business days of the execution thereof.

## **SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION**

**7.01 Certificates Concerning Completion of Construction or Rehabilitation.** (a) Component One Improvements Completion Certificate. Upon proof provided to DCD's

satisfaction of:

- (i) completion of the construction of the Component One Improvements (including the Green Roof) in accordance with the terms of this Agreement;
- (ii) certificate of occupancy for the Component One Improvements portion of the Facility;
- (iii) the establishment of operations by Developer in the Component One Improvements portion of the Facility in accordance with the terms of this Agreement;
- (iv) Developer having met or exceeded the MBE, WBE, prevailing wage and City residency requirements of this Agreement for the Component One Improvements portion of the Project;
- (v) Developer having met or exceeded the Total Project Costs attributable to the Component One Improvements portion of the Project;
- (vi) Developer having incurred and paid for the minimum necessary TIF-Eligible Improvements expenditures attributable to the Component One Improvements portion of the Project;
- (vii) the City having paid to Developer an amount of Patient Rooms City Funds Direct Payments funds that corresponds to the completion of rehabilitation of at least 65 Patient Rooms (i.e., approximately \$2,600,000);
- (viii) cancelled checks and lien waivers for all amounts referenced in subsections (v) and (vi) above;
- (ix) there being no Event of Default in existence or Developer awareness of any facts that might imminently place it in default under this Agreement;

and upon the Developer's written request, then DCD shall issue to the Developer a Component One Improvements Completion Certificate certifying that the Developer has fulfilled its obligation to complete the Component One Improvements portion of the Project in accordance with the terms of this Agreement. DCD shall respond to the Developer's written request for a Component One Improvements Completion Certificate within forty-five (45) days by issuing either the certificate or a written statement detailing the ways in which the Component One Improvements portion of 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 this certificate upon completion of such measures.

(b) Certificate (of Completion). Upon proof provided to DCD's satisfaction of:

- (i) completion of the construction of the Project in accordance with the terms of this Agreement, and a certificate of occupancy for the entire Facility;
- (ii) a current JCAHO certificate;
- (iii) the establishment of operations by Developer in the entire Facility in accordance with the terms of this Agreement;
- (iv) Developer having met or exceeded the MBE, WBE, prevailing wage and City residency requirements of this Agreement (or having paid the appropriate fine for violation of the City residency requirement);
- (v) Developer having met or exceeded the Total Project Costs attributable to the Project;
- (vi) Developer having incurred and paid for all TIF-Eligible Improvements expenditures attributable to the Project;
- (vii) cancelled checks and lien waivers for all amounts referenced in subsections (v) and (vi) above;
- (viii) there being no Event of Default in existence or Developer awareness of any facts that might imminently place it in default under this Agreement;

and upon the Developer's written request, then DCD shall issue to the Developer a Certificate certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DCD shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either the 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 this Certificate upon completion of such measures.

**7.02 Effect of Issuance of Final Certificate; Continuing Obligations.** The Certificate relates only to the construction of the Project and the fulfillment of the other obligations set forth in Section 7.01(b), 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 8.06 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.

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

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

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

(a) the Developer is now and for the Term of the Agreement shall remain an Illinois not for profit corporation 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 corporate action, and does not and will not violate its Articles of Incorporation or by-laws 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 the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that the Developer is contesting in good faith pursuant to Section 8.15 hereof);

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

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

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

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

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

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of DCD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of the Developer's business; (4) assume, guarantee,

endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition;

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

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

**8.03 Redevelopment Plan.** The Developer represents that the Project is and shall be in compliance with all of the terms of the Harrison/Central 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-Eligible Improvements as provided in this Agreement.

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

**8.06 Covenant to Operate the Project.** From the first day of its receipt of a partial occupancy permit involving any portion of the Project, and continuing for the Term of this Agreement, the Developer hereby covenants and agrees to continuously occupy and operate the Facility as an integral part of its hospital building/campus. The covenant set forth in this Section shall run with the land and be binding upon any transferee.

**8.07 Employment Opportunity; Progress Reports.** The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in **Section 10** hereof. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of **Sections 8.09, 10.02 and 10.03** of this Agreement. Unless a different schedule is required elsewhere in this Agreement, such reports shall be delivered to the City quarterly until the Project is fully completed. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DCD which shall outline, to DCD's satisfaction, the manner in which the Developer shall correct any shortfall.

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

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

entered into by the Developer or the General Contractor to evidence compliance with this **Section 8.09**.

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

**8.11 Conflict of Interest**. Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Harrison/Central Redevelopment Area or the Harrison/Central 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 Harrison/Central Redevelopment Area.

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

**8.13 Financial Statements**. The Developer shall obtain and provide to DCD Financial Statements for the Developer's fiscal year ended 2006 and each fiscal year thereafter for the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DCD may request.

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

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

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

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

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

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

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

**8.18 Recording and Filing**. The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed 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; however, if this Agreement is not recorded first, then a Subordination Agreement, in a form acceptable to the City such as the form set forth in Exhibit O hereto, shall be executed on or prior to the Closing Date and recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

## 8.19 Real Estate Provisions.

### (a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon the Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, the Property or the Project including but not limited to real estate taxes.

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

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

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

(b) Developer's Failure To Pay Or Discharge Lien. If the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise DCD

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

**8.20 Public Benefits Program.** The Developer shall undertake the Public Benefits program set forth on Exhibit N, attached hereto and made a part hereof.

**8.21 Loss of JCAHO or Osteopathic HFAP Certificate.** Developer covenants that, during the Term of this Agreement, it shall not fail to maintain accreditation under one or the other of either its current JCAHO certificate or, if it later obtains accreditation under the Osteopathic HFAP, that certificate. Notwithstanding anything in this Agreement to the contrary, the Developer shall be afforded a cure period for any default under this **Section 8.21** equal to that period offered to Developer by the relevant accrediting body for the cure of the actual or potential loss of the accreditation certificate.

**8.22 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.

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

## **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 Harrison/Central 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 Harrison/Central Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human



Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

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

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

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

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

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

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

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

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of DCD in triplicate, which shall identify clearly the

actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

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

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

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

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

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

**Executive Order 11246,**” or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

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

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

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

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

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

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

prior written approval of DCD.

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

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

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

(g) Prior to the commencement of the Project, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that the Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to the

Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

## SECTION 11. ENVIRONMENTAL MATTERS

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

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

## SECTION 12. INSURANCE

The Developer shall provide and maintain, or cause to be provided, at the Developer's own expense, during the Term of the Agreement (or as otherwise specified below), the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement and Throughout the Term of the Agreement

(i) Workers Compensation and Employers Liability Insurance

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

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

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

(b) Construction

(i) Workers Compensation and Employers Liability Insurance

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

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

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

(iii) Automobile Liability Insurance (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor shall provide 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 bases.

(iv) Railroad Protective Liability Insurance

When any work is to be done adjacent to or on railroad or transit property, Contractor shall provide, or cause to be provided with respect to the operations that the Contractor performs, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy has 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) Builders Risk Insurance

When the Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor shall 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 permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as an additional insured and loss payee.

(vi) Professional Liability

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

(vii) Valuable Papers Insurance

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

(viii) Contractor's Pollution Liability

When any remediation work is performed which may cause a pollution exposure, contractor's Pollution Liability shall be provided with limits of not less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, 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 one (1) year. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(c) Term of the Agreement

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Property. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.

(d) Other Requirements

The Developer will furnish the City of Chicago, Department of Community Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage 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 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 the Developer shall not be deemed to be a waiver by the City. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the 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 terminate this Agreement until proper evidence of insurance is provided.

The insurance shall 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 and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer.

The Developer agrees that insurers shall waive rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The Developer expressly understands and agrees that any coverages and limits furnished by the Developer shall in no way limit the Developer's liabilities and responsibilities specified within the Agreement documents or by law.

The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the City of Chicago shall not contribute with insurance provided by the Developer under the Agreement.

The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

The Developer shall require the General Contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the General Contractor, or subcontractors. All General Contractors and subcontractors shall be subject to the same requirements (Section (d)) of Developer unless otherwise specified herein.

If the Developer, General Contractor or any subcontractor desires additional coverages, the Developer, General Contractor and any subcontractor shall be responsible for the acquisition and cost of such additional protection.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as any such change does not increase 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-Eligible 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 Harrison/Central Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or any Affiliate Developer or any agents, employees, contractors or persons acting under the control or at the request of the Developer or any Affiliate of Developer; or

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

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

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

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

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

## SECTION 15. DEFAULT AND REMEDIES

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

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

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

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

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

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

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

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

execution;

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

(i) the dissolution of the Developer; or

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer that is not dismissed within thirty (30) days, or the indictment of the Developer for any crime (other than a misdemeanor).

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

**15.03 Cure Period.** In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured; provided, further, that the cure period under this Section 15.03 does not apply with respect to any failure to comply with the JCAHO and Certificate of Need requirements of Section 8.21 hereof.

## 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 of completion pursuant to **Section 7** hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DCD, which consent shall not be unreasonably withheld.

## SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal

service; (b) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.

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

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

If to the Developer: Loretto Hospital  
645 S. Central Avenue  
Chicago, Illinois 60644  
Attention: Steve Drucker, CEO

With Copies To: Matthew J. Cleveland  
Hogan Marren, Ltd.  
180 N. Wacker Drive - Ste 600  
Chicago, Illinois 60606  
fax: 312-946-9818

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 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, such ordinance(s) shall prevail and control.

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

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

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

**18.15 Assignment.** The Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Section 8.22** (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.

**LORETTO HOSPITAL**, an Illinois not-for-profit corporation

By: Steve GOPY  
Its: President / CEO

**CITY OF CHICAGO**, an Illinois municipal corporation,  
by and through its Department of Community Development

By: \_\_\_\_\_  
Acting Commissioner

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.

**LORETTO HOSPITAL**, an Illinois not-for-profit corporation

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

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

**CITY OF CHICAGO**, an Illinois municipal corporation,  
by and through its Department of Community Development

By:  \_\_\_\_\_  
Acting Commissioner



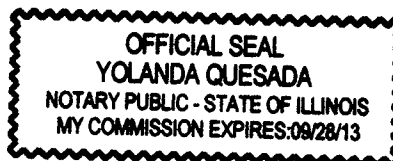
STATE OF ILLINOIS )  
  ) SS  
COUNTY OF COOK )

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

GIVEN under my hand and official seal this 10th day of Nov., 2009

Yolanda Quesada  
Notary Public

My Commission Expires 9-28-2013



**EXHIBIT A**

**Redevelopment Area**

[see attached]

*Exhibit "C".*  
(To Ordinance)

*Legal Description Of The Area.*

That part of the west half of the northeast quarter of Section 16 and that part of the west half of the southeast quarter of Section 16 and that part of the northwest quarter of Section 16 and that part of the southwest quarter of Section 16 and that part of the northeast quarter of Section 17 and that part of the southeast quarter of Section 17 all in Township 39 North, Range 13 East of the Third Principal Meridian, located in the City of Chicago, Cook County, State of Illinois, described as follows:

beginning at the east line of South Austin Boulevard and the south line of West Adams Street; thence east along the south line of West Adams Street to the west line of South Central Avenue; thence south along the west line of South Central Avenue to the easterly extension of the north line of West Quincy Street; thence east along the easterly extension of the north line of West Quincy Street to the east line of South Central Avenue; thence north along the east line of South Central Avenue to the south line of West Monroe Street; thence east along the south line of West Monroe Street to the southerly extension of the east line of the subdivision of Lot 156 in School Trustee's Subdivision, being a subdivision in the north part of Section 16, Township 39 North, Range 11 East of the Third Meridian, in Cook County, Illinois, according to a plat thereof recorded July 19, 1889 as Document Number 1131151; thence north along said southerly extension and the east line of the subdivision of Lot 156, aforesaid, to the southerly line of an east/west alley south of West Madison Street; thence east along said southerly line of an east/west alley south of West Madison Street to the west line of Lot 67 in School Trustee's Subdivision of the north part of Section 16, Township 39 North, Range 11 East of the Third Meridian, in Cook County, Illinois; thence south along the west line of Lot 67, aforesaid and the west line and the north and south extensions thereof of Block 3 in Community Resubdivision of certain lots and parts of lots in School Trustee's Subdivision, being a subdivision in the north part of Section 16, Township 39 North, Range 11 East of the Third Meridian, in Cook County, Illinois, according to a plat thereof recorded April 22, 1946 as Document Number 13774213 to the south line of West Adams Street; thence east along the south line of West Adams Street to the east line of South Laramie Avenue; thence south along the east line of South Laramie Avenue to the north line of West Van Buren Street; thence east along the north line of West Van Buren Street to the west line of South Leamington Avenue; thence north along the west line of South Leamington Avenue to the north line of West Gladys Avenue; thence east along the north line of West Gladys Avenue to the west line of South Lavergne Avenue; thence south along the west line of South Lavergne Avenue to the north line of West Harrison Street; thence west along the north line of West Harrison Street to the east line of South Laramie Avenue; thence south along the east line of South Laramie



Avenue to the center of West Polk Street; thence west along the center of West Polk Street to the east line of South Lockwood Avenue; thence north along the east line of South Lockwood Avenue to the north line of West Lexington Street; thence west along the north line of West Lexington Street to the east line of Lot 4 in Taylor A. Snow's Resubdivision of Lots 17 to 21 in the subdivision of Lot 218, Lots 29 to 32 in the subdivision of Lots 219 and 220 and Lots 8 to 15 in Blocks 1, 14 to 20 and 22 to 26 in Block 2 of Wood's Subdivision of Lots 215, 216 and 217, all in School Trustee's Subdivision of the north part of Section 16, Township 39 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois, according to a plat recorded May 17, 1902 as Document Number 3246305; thence north along the east line of Lot 4 in Taylor A. Snow's Resubdivision aforesaid and its northerly extension to the center of the east/west alley lying between Lot 3 and Lot 4 in said Taylor A. Snow's Resubdivision; thence east along the center of the last mentioned east/west alley to the southerly extension of the east line of said Lot 3; thence north along the east line of Lot 3 and its southerly extension in Taylor A. Snow's Resubdivision aforesaid to the south line of West Flournoy Street; thence west along the south line of West Flournoy Street to the west line of Lot 1 in Taylor A. Snow's Resubdivision aforesaid; thence south along the west line of said Lot 1 and its southerly extension to the center of the last mentioned east/west alley; thence west along the center of the last mentioned east/west alley to the northerly extension of the west line of Lot 6 in Taylor A. Snow's Resubdivision aforesaid; thence south along the west line of said Lot 6 and its northerly extension to the north line of West Lexington Street; thence west along the north line of West Lexington Street to the west line of South Lotus Avenue; thence south along the west line of South Lotus Avenue to the south line of the first east/west public alley south of West Lexington Street; thence west along the south line of the east/west public alley to the east line of South Central Avenue; thence south along the east line of South Central Avenue to the southerly line of vacated West 5<sup>th</sup> Street; thence westerly along the southerly line of vacated West 5<sup>th</sup> Street to the west line of South Central Avenue; thence north along the west line of South Central Avenue to the south line of West Lexington Street; thence west along the south line of West Lexington Street to the east line of South Austin Boulevard; thence north along the east line of South Austin Boulevard to the point of beginning, in Cook County, Illinois.

*Exhibit "D".*  
(To Ordinance)

*Street Boundary Description Of The Area.*

The Area is bounded approximately by South Lavergne Avenue on the east, South Austin Boulevard on the west, West Madison Street on the north and the Congress Expressway to the south.

**EXHIBIT B**

**Property**

[see attached]

TICOR TITLE INSURANCE COMPANY

OWNER'S POLICY (2006)  
SCHEDULE A (CONTINUED)

POLICY NUMBER: 2000 - M99038089 - N

5. THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOTS 9 THROUGH 16, BOTH INCLUSIVE, IN FISCHERS' SUBDIVISION OF LOT 230 IN SCHOOL TRUSTEES' SUBDIVISION OF THE NORTH PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 8 THROUGH 14, BOTH INCLUSIVE, IN DAVIS AND SONS' SUBDIVISION OF LOT 229 IN SCHOOL TRUSTEES' SUBDIVISION OF THE NORTH PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOTS 1 TO 11, BOTH INCLUSIVE, IN DAVIS AND SONS' SUBDIVISION OF LOTS 221 AND 222 IN SCHOOL TRUSTEES' SUBDIVISION OF THE NORTH PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOTS 16 TO 22, BOTH INCLUSIVE, IN DAVIS AND SONS' SUBDIVISION OF LOTS 221 AND 222 IN SCHOOL TRUSTEES' SUBDIVISION OF THE NORTH PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

AS VACATED BY ORDINANCE RECORDED JUNE 19, 2007 AS DOCUMENT NO. 0717022044, ALL THAT PART OF SOUTH LOTUS AVENUE LYING EAST OF THE EAST LINE OF LOT 1 IN PARCEL 4 ABOVE; LYING WEST OF THE WEST LINE OF LOT 14 IN PARCEL 6 BELOW; LYING SOUTH OF A LINE DRAWN FROM THE NORTHEAST CORNER OF OF SAID LOT 1 TO THE NORTHWEST CORNER OF SAID LOT 14; AND LYING NORTH OF A LINE DRAWN FROM THE SOUTHEAST CORNER OF SAID LOT 1 TO THE SOUTHWEST CORNER OF SAID LOT 14.

PARCEL 6:

LOTS 9 TO 14, BOTH INCLUSIVE, IN T. C. BROCKHAUSEN'S SUBDIVISION OF LOTS 219 AND 220 IN SCHOOL TRUSTEES' SUBDIVISION OF THE NORTH PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

THIS POLICY VALID ONLY IF SCHEDULE B IS ATTACHED

## EXHIBIT C

### TIF-ELIGIBLE IMPROVEMENTS

[see attached]\*

\* Notwithstanding the total of TIF-Eligible Improvements shown here, the assistance to be provided by the City is limited to the maximum amount of City Funds calculated pursuant to Section 4.03 herein.

# EXHIBIT C-1

## Component Two Improvements (Patient Rooms)\*

### LORETTO HOSPITAL

### TIF-ELIGIBLE IMPROVEMENTS

PROJECT COSTS	Component Two Costs	TIF ELIGIBLE COSTS
<b>SOFT COSTS**</b>		
Architectural Fees	497,000	
Engineering Fees	245,000	245,000
Legal Fees	206,000	
Project Management Fees	0	
Environmental Testing Fees	50,000	50,000
Soil Testing Fees	0	
Site Survey	0	
Insurance Costs	25,000	
Permit Fees	90,000	
Construction Finance / Interest	130,000	
IDPH Plan Review Fees	15,000	
Contingency (5%)	63,000	
Soft Costs' Subtotal	\$1,321,000	\$295,000
<b>HARD COSTS:</b>		
<b>Site costs</b>		
Land Acquisition	0	
Site Work	0	
Environmental	0	
Utilities / Connections	0	
Landscaping	0	
Signage	0	
Contingency (10%)	0	
Subtotal	0	0
<b>Building Construction Costs</b>		
Foundations	0	
Building Structure	0	
Building Enclosure	0	
Rehab. of Interior Construction	3,504,000	3,504,000
Elevator	0	
HVAC / Mechanical	853,000	853,000
Plumbing & Fire Protection	3,789,000	3,789,000
Electrical	1,748,000	1,748,000
Environmental	90,000	90,000
Contingency (10%)	998,000	
Subtotal	\$10,982,000	\$9,984,000
<b>EQUIPMENT COST</b>		
Medical Equipment & Furniture	2,000,000	
Subtotal	\$2,000,000	0
<b>TOTAL PROJECT COST</b>	<b>\$14,303,000</b>	<b>\$10,279,000</b>

\* Patient Rooms include Remodeling Recovery Room, Fire Sprinklers, Expand Addiction Treatment Facilities, and Replace/Repair Electrical and Sewer.

\*\* Soft Costs do not include TIF Consulting Fees & Related Costs.

## EXHIBIT C-2

### Component One Improvements (Emergency Department)

#### LORETTO HOSPITAL

#### TIF-ELIGIBLE IMPROVEMENTS

<b>PROJECT COSTS</b>	<b>Component One Costs</b>	<b>TIF ELIGIBLE COSTS</b>
<b>SOFT COSTS*</b>		
Architectural Fees	435,000	
Engineering Fees	185,000	185,000
Legal Fees	105,000	
Project Management Fees	0	
Environmental Testing Fees	20,000	20,000
Soil Testing Fees	25,000	25,000
Site Survey	30,000	30,000
Insurance Costs	12,000	
Permit Fees	75,000	
Construction Finance / Interest	75,000	
IDPH Plan Review Fees	10,000	
Contingency (5%)	49,000	
<b>Soft Costs' Subtotal</b>	<b>\$1,021,000</b>	<b>\$260,000</b>
<b>HARD COSTS:</b>		
<b>Site costs</b>		
Ald. Sidewalk - public right of way	100,000	100,000
Land Acquisition	0	
Site Work	942,000	942,000
Environmental	50,000	50,000
Utilities / Connections	956,000	956,000
Landscaping	335,000	
Signage	115,000	
Contingency (10%)	240,000	
<b>Subtotal</b>	<b>\$2,738,000</b>	<b>\$2,048,000</b>
<b>Building Construction Costs</b>		
Foundations	43,000	
Building Structure	477,000	
Building Enclosure	390,000	
Rehab. of Interior Construction	1,690,000	1,690,000
Elevator	167,000	
HVAC / Mechanical	650,000	
Plumbing & Fire Protection	520,000	
Electrical	563,000	
Environmental	55,000	55,000
Contingency (10%)	456,000	
<b>Subtotal</b>	<b>\$5,011,000</b>	<b>\$1,745,000</b>
<b>EQUIPMENT COST</b>		
Medical Equipment & Furniture	619,000	
<b>Subtotal</b>	<b>619,000</b>	<b>0</b>
<b>TOTAL PROJECT COST</b>	<b>\$9,389,000</b>	<b>\$4,053,000</b>

\* Soft Costs do not include TIF Consulting Fees & Related Costs.

## EXHIBIT C-3

Costs associated with the creation of Harrison/Central Redevelopment Project Area

### TIF-ELIGIBLE IMPROVEMENTS

<b>PROJECT COSTS</b>	<b>TIF Area Creation Costs</b>	<b>TIF ELIGIBLE COSTS</b>
Consultant fees	500,000	500,000

**EXHIBIT D**

Harrison/Central Redevelopment Plan

[see attached]



**EXHIBIT E**

Construction Contract (for Component One Improvements work only)

[see attached]

## **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**

**EXHIBIT H-1**  
**PROJECT BUDGET**

[see attached]

## EXHIBIT H-1

### LORETTO HOSPITAL

### PROJECT BUDGET

PROJECT COSTS	COMPONENT ONE	COMPONENT TWO*	TOTALS
<b>SOFT COSTS**</b>			
Architectural Fees	435,000	497,000	932,000
Engineering Fees	185,000	245,000	430,000
Legal Fees	105,000	206,000	311,000
Project Management Fees	0	0	0
Environmental Testing Fees	20,000	50,000	70,000
Soil Testing Fees	25,000	0	25,000
Site Survey	30,000	0	30,000
Insurance Costs	12,000	25,000	37,000
Permit Fees	75,000	90,000	165,000
Construction Finance / Interest	75,000	130,000	205,000
IDPH Plan Review Fees	10,000	15,000	25,000
Contingency (5%)	49,000	63,000	112,000
Subtotal	\$1,021,000	\$1,321,000	\$2,342,000
<b>SITE COST</b>			
Ald. Sidewalk - public right of way	100,000		100,000
Land Acquisition	0	0	0
Site Work	942,000	0	942,000
Environmental	50,000	0	50,000
Utilities / Connections	956,000	0	956,000
Landscaping	335,000	0	335,000
Signage	115,000	0	115,000
Contingency (10%)	240,000	0	240,000
Subtotal	\$2,738,000	\$0	\$2,738,000
<b>BUILDING CONSTRUCTION COST</b>			
Foundations	43,000	0	43,000
Building Structure	477,000	0	477,000
Building Enclosure	390,000	0	390,000
Rehab. of Interior Construction	1,690,000	3,504,000	5,194,000
Elevator	167,000	0	167,000
HVAC / Mechanical	650,000	853,000	1,503,000
Plumbing & Fire Protection	520,000	3,789,000	4,309,000
Electrical	563,000	1,748,000	2,311,000
Environmental	55,000	90,000	145,000
Contingency (10%)	456,000	998,000	1,454,000
Subtotal	\$5,011,000	\$10,982,000	\$15,993,000
<b>EQUIPMENT COST</b>			
Medical Equipment & Furniture	619,000	2,000,000	2,619,000
Subtotal	\$619,000	\$2,000,000	\$2,619,000
<b>TOTAL PROJECT COST</b>	<b>\$9,389,000</b>	<b>\$14,303,000</b>	<b>\$23,692,000</b>

\* Component Two includes: Patient Rooms include Remodeling Recovery Room, Fire Sprinklers, Expand Addiction Treatment Facilities, and Replace/Repair Electrical and Sewer.

\*\* Soft Costs do not include TIF Consulting Fees & Related Costs.

**EXHIBIT H-2**  
**MBE/WBE BUDGET**

[see attached]

## EXHIBIT H-2a

### Component One Improvements (Emergency Department)

#### LORETTO HOSPITAL

#### MBE/WBE BUDGET

<b>PROJECT COSTS</b>	<b>Component One Costs</b>	<b>MBE/WBE ELIGIBLE COSTS</b>
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#### **SOFT COSTS\***

Architectural Fees	435,000	
Engineering Fees	185,000	
Legal Fees	105,000	
Project Management Fees	0	
Environmental Testing Fees	20,000	
Soil Testing Fees	25,000	
Site Survey	30,000	
Insurance Costs	12,000	
Permit Fees	75,000	
Construction Finance / Interest	75,000	
IDPH Plan Review Fees	10,000	
Contingency (5%)	49,000	
<b>Soft Costs' Subtotal</b>	<b>1,021,000</b>	<b>0</b>

#### **HARD COSTS:**

##### **Site costs**

Ald. Sidewalk - public right of way	100,000	100,000
Land Acquisition	0	
Site Work	942,000	942,000
Environmental	50,000	50,000
Utilities / Connections	956,000	956,000
Landscaping	335,000	335,000
Signage	115,000	115,000
Contingency (10%)	240,000	240,000
<b>Subtotal</b>	<b>\$2,738,000</b>	<b>\$2,738,000</b>

##### **Building Construction Costs**

Foundations	43,000	43,000
Building Structure	477,000	477,000
Building Enclosure	390,000	390,000
Rehab. of Interior Construction	1,690,000	1,690,000
Elevator	167,000	167,000
HVAC / Mechanical	650,000	650,000
Plumbing & Fire Protection	520,000	520,000
Electrical	563,000	563,000
Environmental	55,000	55,000
Contingency (10%)	456,000	456,000
<b>Subtotal</b>	<b>\$5,011,000</b>	<b>\$5,011,000</b>

##### **EQUIPMENT COST**

Medical Equipment & Furniture	619,000	
<b>Subtotal</b>	<b>619,000</b>	<b>0</b>

<b>TOTAL PROJECT COST</b>	<b>\$9,389,000</b>	
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<b>Total MBE/WBE Eligible Costs</b>	<b>\$7,749,000</b>
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<b>Minimum Contract Amount to MBE Contractors (24%)</b>	<b>\$1,859,760</b>
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<b>Minimum Contract Amount to WBE Contractors (4%)</b>	<b>\$309,960</b>
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The above MBE/WBE dollar values are an estimate. If the actual cost of the above applicable MBE/WBE activities increase, the associated MBE/WBE dollar values will increase accordingly.

## EXHIBIT H-2b

Component Two Improvements (Patient Rooms)\*

### LORETTO HOSPITAL

### MBE/WBE BUDGET

PROJECT COSTS	Component Two Costs	MBE/WBE ELIGIBLE COSTS
<b>SOFT COSTS**</b>		
Architectural Fees	497,000	
Engineering Fees	245,000	
Legal Fees	206,000	
Project Management Fees	0	
Environmental Testing Fees	50,000	
Soil Testing Fees	0	
Site Survey	0	
Insurance Costs	25,000	
Permit Fees	90,000	
Construction Finance / Interest	130,000	
IDPH Plan Review Fees	15,000	
Contingency (5%)	63,000	
Soft Costs' Subtotal	\$1,321,000	0
<b>HARD COSTS:</b>		
<b>Site costs</b>		
Land Acquisition	0	
Site Work	0	
Environmental	0	
Utilities / Connections	0	
Landscaping	0	
Signage	0	
Contingency (10%)	0	
Subtotal	0	0
<b>Building Construction Costs</b>		
Foundations	0	
Building Structure	0	
Building Enclosure	0	
Rehab. of Interior Construction	3,504,000	3,504,000
Elevator	0	
HVAC / Mechanical	853,000	853,000
Plumbing & Fire Protection	3,789,000	3,789,000
Electrical	1,748,000	1,748,000
Environmental	90,000	90,000
Contingency (10%)	998,000	998,000
Subtotal	\$10,982,000	\$10,982,000
<b>EQUIPMENT COST</b>		
Medical Equipment & Furniture	2,000,000	
Subtotal	2,000,000	0
<b>TOTAL PROJECT COST</b>	<b>\$14,303,000</b>	

**Total MBE/WBE Eligible Costs** **\$10,982,000**

**Minimum Contract Amount to MBE Contractors (24%)** **\$2,635,680**

**Minimum Contract Amount to WBE Contractors (4%)** **\$439,280**

The above MBE/WBE dollar values are an estimate. If the actual cost of the above applicable MBE/WBE activities increase, the associated MBE/WBE dollar values will increase accordingly.

\* Patient Rooms include Remodeling Recovery Room, Fire Sprinklers, Expand Addiction Treatment Facilities, and Replace/Repair Electrical and Sewer.

**EXHIBIT I**

**APPROVED PRIOR EXPENDITURES**

Costs incurred in obtaining assistance for the  
establishment of the Harrison/Central Redevelopment Area

\$500,000\*

\* This is the maximum reimbursement allowed as the Initial City Funds Direct  
Payment



**EXHIBIT J**

**OPINION OF DEVELOPER'S COUNSEL**

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

City of Chicago  
121 North LaSalle Street  
Chicago, IL 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. **[Note: include a reference to the laws of the state of incorporation/organization of the Developer, if other than Illinois.]**

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

Very truly yours,

\_\_\_\_\_

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

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

**EXHIBIT L-1**

INITIAL CITY FUNDS REQUISITION FORM

STATE OF ILLINOIS   )  
                                  ) SS  
COUNTY OF COOK    )

The affiant, Loretto Hospital, an Illinois not for profit corporation ( the “Developer”), hereby certifies that, with respect to that certain Loretto Hospital Redevelopment Agreement entered into by and between the Developer and the City of Chicago, dated \_\_\_\_\_, \_\_\_ (the “Agreement”):

A. To date, the Developer has incurred and paid the following Prior Expenditures solely for the purpose of purchasing from a consultant advice and assistance for the establishment of the Harrison/Central Redevelopment Area the Project (the “Area Establishment Prior Expenditures”):

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

B. To date, the City has reimbursed or otherwise paid to Developer the following amount for the Developer’s Area Establishment Prior Expenditures:

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

C. The Developer hereby requests payment from the City of the Initial City Funds Direct Payment in an amount not to exceed \$500,000, to reimburse Developer for not to exceed \$500,000 of Developer’s Area Establishment Prior Expenditures (which are TIF-Eligible Improvements):

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

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

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

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

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

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

LORETTO HOSPITAL, an Illinois not for profit corporation

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

Name

Title: \_\_\_\_\_

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

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
My commission expires: \_\_\_\_\_

**Agreed and accepted:**

City of Chicago, by and through its Department of Community Development

\_\_\_\_\_  
Name

Title: \_\_\_\_\_

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

**EXHIBIT L-2**

**CITY NOTE PAYMENT REQUISITION FORM**

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

The affiant, Loretto Hospital, an Illinois not for profit corporation ( the “**Developer**”), hereby certifies that, with respect to that certain Loretto Hospital Redevelopment Agreement entered into by and between the Developer and the City of Chicago, dated \_\_\_\_\_, \_\_\_\_ (the “**Agreement**”):

A. The Developer has been paid the Initial City Funds Direct Payment in the amount of \$ \_\_\_\_\_ to reimburse certain Prior Expenditures that were incurred solely for the purpose of purchasing from a consultant advice and assistance for the establishment of the Harrison/Central Redevelopment Area the Project.

B. To date, the City has reimbursed or otherwise paid to Developer the following cumulative amount of Patient Rooms City Funds Direct Payments: \$ \_\_\_\_\_.

C. The amount listed in paragraph B, above, does not exceed \$4,000,000.

D. To date, the City has paid the Developer the following cumulative amount on the City Note:

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

E. The amount listed in paragraph D, above, does not exceed \$3,000,000.

F. The Developer hereby requests that, not later than March 1, \_\_\_\_\_, the City make its annual payment for calendar year \_\_\_\_\_ on the City Note pursuant to Section 4.03(e) of the Agreement.

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

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

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

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

LORETTO HOSPITAL, an Illinois not for profit corporation

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

Name

Title: \_\_\_\_\_

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

Subscribed and sworn before me this \_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
My commission expires: \_\_\_\_\_

**Agreed and accepted:**

City of Chicago, by and through its Department of Community Development

\_\_\_\_\_  
Name

Title: \_\_\_\_\_

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



EXHIBIT L-3

PATIENT ROOMS CITY FUNDS REQUISITION FORM

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

The affiant, Loretto Hospital, an Illinois not for profit corporation ( the “Developer”), hereby certifies that, with respect to that certain Loretto Hospital Redevelopment Agreement entered into by and between the Developer and the City of Chicago, dated \_\_\_\_\_, \_\_\_ (the “Agreement”):

A. The Developer has been paid the Initial City Funds Direct Payment in the amount of \$ \_\_\_\_\_ to reimburse certain Prior Expenditures that were incurred solely for the purpose of purchasing from a consultant advice and assistance for the establishment of the Harrison/Central Redevelopment Area the Project.

B. To date, the City has paid the Developer the following cumulative amount on the City Note:

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

C. The amount listed in paragraph B, above, does not exceed \$3,000,000.

D. To date, the City has reimbursed or otherwise paid to Developer the following cumulative amount of Patient Rooms City Funds Direct Payments: \$ \_\_\_\_\_ [must be a multiple of \$40,000], and the number of fully rehabilitated Patient Rooms this amount represents is: \_\_\_\_\_ [must be a whole number].

E. The amount listed in paragraph D, above, does not exceed \$4,000,000.

F. Not including those Patient Rooms included in paragraph D, above, the Developer has completed the rehabilitation of \_\_\_\_\_ [must be a whole number] additional Patient Rooms. If this number exceeds five, the excess number may be carried over to the next submission of this Form.

G. Developer hereby requests that the City make its quarterly Patient Rooms City Funds Direct Payment in the amount of \$ \_\_\_\_\_ [must equal \$40,000 x the number shown in paragraph F, above, but not to exceed \$200,000] pursuant to Section 4.03(f) of the Agreement.

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

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

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

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

LORETTO HOSPITAL, an Illinois not for profit corporation

By: \_\_\_\_\_  
Name  
Title: \_\_\_\_\_

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

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_

My commission expires: \_\_\_\_\_

**Agreed and accepted:**

City of Chicago, by and through its Department of Community Development

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

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

**EXHIBIT M**

FORM OF CITY NOTE

CITY NOTE

REGISTERED

NO. R-1

MAXIMUM  
AMOUNT  
\$3,000,000

**UNITED STATES OF AMERICA  
STATE OF ILLINOIS  
COUNTY OF COOK  
CITY OF CHICAGO  
TAX INCREMENT ALLOCATION REVENUE NOTE (HARRISON/CENTRAL  
REDEVELOPMENT PROJECT AREA) (LORETTO HOSPITAL PROJECT),  
TAXABLE SERIES 2009A**

Registered Owner: Loretto Hospital, an Illinois not for profit corporation

Interest Rate:

Maturity Date: March 1, 2020

**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, as advanced from time to time by the Registered Owner and acknowledged by Certificate(s) of Expenditure issued by the City, to pay costs of the Project (as hereafter defined) in accordance with the ordinance hereinafter referred to up to the principal amount of \$3,000,000 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 Incremental Taxes (as defined in the hereinafter defined Redevelopment Agreement) is due March 1 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 \$3,000,000 for the purpose of paying the costs of certain eligible redevelopment project costs incurred by Loretto Hospital, an Illinois not for profit corporation (the "Developer") in connection with the Component One Improvements (renovation and expansion of the Emergency Department) (the "Project"), all within or adjacent to the Harrison/Central Redevelopment Project Area (the "Project Area") in the City, pursuant to a Redevelopment Agreement dated as of November 10, 2009 by and between the City and Developer, 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 May 14, 2008 (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 and from the Madison/Austin Corridor Redevelopment Project Area and the Roosevelt/Cicero Redevelopment 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 INCREMENTAL TAXES, AND SHALL BE A VALID CLAIM OF THE REGISTERED OWNER HEREOF ONLY AGAINST SAID SOURCE. 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, 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 \$3,000,000 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 or terminate payments of principal and of interest on this Note upon the occurrence of certain conditions. 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 IS INTENTIONALLY 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 November 10, 2009.

---

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 (Harrison/Central Redevelopment Project Area) (Loretto Hospital Project), Taxable Series 2009A of the City of Chicago, Cook County, Illinois.

---

Comptroller

Date: November 10, 2009

**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 \_\_\_\_\_ as attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

[name of current Registered Owner]

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

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

Date: \_\_\_\_\_, 20\_\_

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.

\* \* \*

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

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

\* \* \*

Consented to as of \_\_\_\_\_, 20\_\_ by:

CITY OF CHICAGO, acting through its  
DEPARTMENT OF COMMUNITY DEVELOPMENT

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

CERTIFICATION OF EXPENDITURE

\_\_\_\_\_, 2009

To: Registered Owner

Re: City of Chicago, Cook County, Illinois (the "City")  
\$3,000,000 Tax Increment Allocation Revenue Note  
(Harrison/Central Redevelopment Project Area) (Loretto Hospital Project), Taxable  
Series 20\_\_\_\_\_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 \_\_\_\_\_, 20\_\_ (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 (subject to the hold-back provisions, if any, set forth in Section 4.03 of the Redevelopment Agreement). 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 \$\_\_\_\_\_ (subject to the hold-back provisions, if any, set forth in Section 4.03 of the Redevelopment Agreement), 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 \_\_\_\_\_, 20\_\_.

CITY OF CHICAGO

By:  
Acting Commissioner  
Department of Community  
Development

AUTHENTICATED BY:

REGISTRAR

## **EXHIBIT N**

### **Public Benefits Program**

As a condition to the issuance of the Certificate (as defined in the Redevelopment Agreement), the Developer shall make an unrestricted donation in the amount of \$10,000 to the May Elementary Community Academy, a public magnet school, which is located at 512 S. Lavergne Ave, Chicago, IL 60644.

**EXHIBIT O**

Form of Subordination Agreement

This document prepared by and after recording return to:  
Adam R. Walker, 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 Community Development (the "City"), [Name Lender], a [national banking association] (the "Lender").

**WITNESSETH:**

**WHEREAS, [Describe Project - use language from Recitals of Redevelopment Agreement - see example below] the \_\_\_\_\_ an Illinois limited liability company (the "Developer"), has purchased certain property located within the Central Loop Redevelopment Project Area at 134 North LaSalle Street and 171 West Randolph**

Street, Chicago, Illinois 60602 and legally described on Exhibit A hereto (the "Property"), in order to redevelop the building (the "Building") located on the Property through the following activities: (i) the renovation of the Bismarck Hotel; (ii) the renovation of the Palace Theater, including the renovation of the auditorium and related public spaces; (iii) the renovation of the Metropolitan Office Building to meet the requirements of the Americans with Disabilities Act and to refinish certain common areas; (iv) the upgrade of the centralized mechanical, electrical and plumbing ("MEP") systems of the Building, including life safety and fire protection as well as MEP improvements to specific Building use components; and (v) sidewalk vault and Building facade improvements (the "Public Improvements") (the redevelopment of the Building and the Property as described above and the related Public Improvements are collectively referred to herein as the "Project."); and

**WHEREAS, [describe financing and security documents - leave blanks as necessary if you do not have financing documents - see example below]** as part of obtaining financing for the Project, the Developer and American National Bank and Trust Company of Chicago, as trustee under Trust Agreement dated November 19, 1996 and known as Trust No. 122332-01 (the "Land Trustee") (the Developer and the Land Trustee collectively referred to herein as the "Borrower"), have entered into a certain Construction Loan Agreement dated as of December 29, 1997 with the Lender pursuant to which the Lender has agreed to make a loan to the Borrower in an amount not to exceed \$44,000,000 (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 December 29, 1997 and recorded January 2, 1998 as document number 98001840 made by the Borrower to the Lender; and (ii) Assignment of Leases and Rents recorded January 2, 1998 as document number 98001841 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, 8.19 and 8.20] [**Note: Refer to Section 7.02 of the Agreement to confirm which covenants to list**] 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 Community 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.

**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 Community  
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 Community 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

**EXHIBIT P**

**Form of Payment and Performance Bonds**

[see attached]