



Doc#: 0832922113 Fee: \$78.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 11/24/2008 04:22 PM Pg: 1 of 22

MAIL TO [handwritten initials]

10/1 - JL

NO1061271

This document was prepared by and after recording return to:  
Scott D. Fehlan  
City of Chicago Law Department  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

### FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT

This First Amendment to Redevelopment Agreement ("**Amendment**") is dated as of November 21, 2008 by and among the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Planning and Development ("**DPD**"), MetraMarket of Chicago, L.L.C., an Illinois limited liability company ("**MetraMarket**"), Ogilvie Transit Center Investor, Inc., an Illinois corporation ("**OTCI**"); jointly and severally with MetraMarket, individually and collectively, the "**Developer**").

### RECITALS

A. Developer and the City have entered into a MetraMarket of Chicago, L.L.C. Redevelopment Agreement dated as of August 27, 2008 (the "**RDA**"), which was recorded with the Recorder of Deeds of Cook County on August 27, 2008 as Document No. 0824040218 pursuant to which the City provided additional financing to assist Developer in completing the Project (as defined in the RDA), which is located on the property described in Exhibit A attached hereto (the "**Property**"). Capitalized terms not otherwise defined in this Amendment shall have the meanings given them in the RDA.

B. The parties desire to amend the RDA to, among other things, extend the completion deadline with respect to Phase 1, extend the commencement and completion deadlines with respect to Phase 2, change the conditions to the issuance of a Substantial Completion Certificate and make several other changes relating to Phase 2.

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:

## AGREEMENTS

1. **Recitals.** The recitals stated above are incorporated as a part of this Amendment.

2. **Closing Conditions.** The effectiveness of this Amendment is subject to the covenants and agreements contained herein, and the satisfaction of the following conditions:

(a) **Amendment.** The execution of this Amendment by all parties and the recording of this Amendment;

(b) **Title.** The Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, dated within ten days of the date this Amendment is signed, showing the Developer as the named insured, satisfying the requirements described in **Section 5.05** of the RDA and noting the recording of this Amendment as an encumbrance against the Property;

(c) **Evidence of Clean Title.** The Developer, at its own expense, has provided the City with searches, updated within ten days of the date this Amendment is signed, as described under **Section 5.06** of the RDA, showing no liens against the Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens;

(d) **Opinion of the Developer's Counsel.** The Developer has furnished the City with an opinion of counsel, substantially in the form attached as **Exhibit J** to the RDA, with such changes as required by or acceptable to Corporation Counsel; **provided**, that 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; and

(e) **Corporate Documents; Economic Disclosure Statement.** The Developer has delivered to the City the following documents accompanied by a certificate of the secretary or authorized officer of each entity certifying them as true, correct and complete copies that have not been amended or modified: (i) Articles of Organization or Articles of Incorporation, as applicable, (ii) good standing certificate, (iii) written consent or resolutions authorizing the execution of this Amendment, (iv) evidence of incumbency, and (v) operating agreement or bylaws, as applicable. The Developer has delivered Economic Disclosure Statement(s), in the City's then current form, dated the date hereof.

3. **Amendment to RDA.** The RDA is amended as follows:

Section	Deletion and/or addition
Table of Contents	After Section 5.15 Litigation add the following:  "SECTION 5A. CONDITIONS PRECEDENT TO EACH COMPONENT COMMENCEMENT LETTER ..... [ add page number] 5A.01 Developer Obligations.....[ add page number] 5A.02 City Actions....[ add page number]"
List of Exhibits	After Exhibit O *Pre-Approved Tenants and Uses add the following:  "Exhibit P * Form of Component Commencement Letter"

Section	Deletion and/or addition
Section 2 Definitions	<p>After the definition of "<b>Commitment Letter</b>" add the following:</p> <p>"<b>Component(s)</b>" shall mean, depending on the context, either one or both of Phase 1 and/or Phase 2.</p> <p>'<b>Component Commencement Letter</b>' shall mean that letter from DPD to the Developer indicating that the Developer has fully complied with all of the conditions of Section 5A.01 herein that apply to Phase 2."</p>
Section 2 Definitions	<p>Delete the definition of "<b>Final Completion Certificate</b>" and replace with the following:</p> <p>"<b>Final Completion Certificate</b>" shall mean (a) the certificate of completion that the City may issue with respect to the final completion of the Project pursuant to <b>Section 7.01</b> hereof and (b) for purposes of <b>Sections 8.01(j), 8.01(k), 8.06, 15.01(k)</b> and <b>15.04</b> only, and only if either of the conditions described in <b>Section 7.01(d)</b> has occurred, the Substantial Completion Certificate."</p>
Section 2 Definitions	<p>Delete definition of "<b>Project Budget</b>" and replace with the following:</p> <p>"<b>Project Budget</b>" shall mean the budget attached hereto as <b>Exhibit H</b>, showing the total cost of the Project by Component and by line item, furnished by the Developer to DPD, in accordance with <b>Section 3.03</b> hereof."</p>
Section 3.01 The Project	<p>Delete <b>Section 3.01</b> and replace with the following:</p> <p style="padding-left: 40px;"><b>3.01 The Project.</b> With respect to Phase 1, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of <b>Section 18.17</b> hereof:</p> <p style="padding-left: 80px;">(i) commence construction of Phase 1 no later than February 28, 2007; and</p> <p style="padding-left: 80px;">(ii) complete construction of Phase 1 no later than March 31, 2010.</p> <p style="padding-left: 40px;">With respect to Phase 2, if the Developer elects to redevelop Phase 2, as evidenced by the Developer's written request that the City issue a Component Commencement Letter, then after having obtained a Component Commencement Letter, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of <b>Section 18.17</b> hereof:</p> <p style="padding-left: 80px;">(i) commence construction of Phase 2 no later than November 30, 2010; and</p> <p style="padding-left: 80px;">(ii) complete construction of Phase 2 no later than March 31, 2012.</p> <p>Notwithstanding anything to the contrary contained in this Agreement, the Developer shall have no affirmative obligation to redevelop Phase 2;</p>

Section	Deletion and/or addition
	<p><u>provided, however</u>, that if the Developer elects to redevelop Phase 2, as evidenced by the Developer's written request that the City issue a Component Commencement Letter, then the Developer shall complete such redevelopment of Phase 2 in accordance with this Agreement."</p>
<p>Section 3.04 Change Orders</p>	<p>Delete the sentence that reads "As used in the preceding sentence, a <b>"material change to the Project"</b> means... by more than 10%." and replace with the following:</p> <p>"As used in the preceding sentence, a <b>"material change to the Project"</b> means (a) an increase in the gross or net square footage of the Facility or any Component by more than 10%, individually or cumulatively; (b) a reduction in the net square footage of the Facility or any Component by more than 5%, individually or cumulatively; (c) a change to the Minimum Configuration; (d) a change in the use of the Property or any Component to a use other than as described in <b>Recital D</b> to this Agreement; (e) a delay in the completion of Phase 1 or Phase 2 of the Project by more than 180 days; or (f) Change Orders that, in the aggregate, increase or decrease the Project Budget (whether the total Project Budget or the Project Budget for Phase 1 or Phase 2) by more than 10%."</p>
<p>Section 3.07 Progress Reports and Survey Updates</p>	<p>Delete the phrase "(with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to <b>Section 3.04</b>)." and replace with the following:</p> <p>"(with any change in completion date of Phase 1 or Phase 2 of the Project by more than 180 days being considered a Change Order, requiring DPD's written approval pursuant to <b>Section 3.04</b>)." "</p>
<p>Section 4.05 (c), Allocation Among Line Items</p>	<p>Delete the phrase "from one line item to another, shall be permitted without the prior written consent of DPD, <u>provided</u>, that all such transferred and/or reallocated line items qualify as Redevelopment Project Costs" and replace with the following:</p> <p>"from one line item to another within each Component, shall be permitted without the prior written consent of DPD, <u>provided</u>, that all such transferred and/or reallocated line items within such Component qualify as Redevelopment Project Costs."</p>
<p>Section 5.04 Financing</p>	<p>In both places where it appears in Section 5.04, delete the phrase "to complete the Project" and replace with the following:</p> <p>"to complete Phase 1 of the Project"</p>
<p>Section 5 Conditions Precedent</p>	<p>After Section 5, add a new SECTION 5A. CONDITIONS PRECEDENT TO THE COMPONENT COMMENCEMENT LETTER in the form attached hereto as <u>Exhibit B</u></p>
<p>Section 6.01 Bid Requirement for General Contractor and Subcontractors</p>	<p>Replace the phrase "construction of the Project" with the phrase "construction of any Component"</p> <p>Replace the phrase "complete the Project" with the phrase "complete such Component"</p> <p>Replace the phrase "begin work on the Project" with the phrase "begin</p>

Section	Deletion and/or addition
	work on Phase 1 of the Project”
Section 6.02 Construction Contract	Replace the phrase “selected to handle the Project” with the phrase “selected to handle the applicable Component”
Section 7.01 Certificate of Completion of Construction	<p>In both places where it appears in Section 7.01 replace the phrase “applicable component of the Project” with the phrase “applicable Component of the Project”</p> <p>Replace the phrase “construction of each phase of the Project” with the phrase “construction of such Component”</p> <p>Delete subsection 7.01(a)(iii) and replace with the following:</p> <p>“The Developer has substantially completed construction of the associated improvements that the Developer is required to construct in accordance with the requirements, including timing requirements, of the executed tenants’ leases that satisfy the requirements of <b><u>Section 7.01(a)(ii)</u></b> above;”</p> <p>Delete “and” from the end of subsection 7.01(a)(vi)</p> <p>Delete subsection 7.01(a)(vii) and replace with the following:</p> <p>“(vii) Developer has incurred costs for TIF-Funded Improvements for Phase 1 in an amount equal to or higher than \$8,000,000; and</p> <p>(viii) The City’s Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in <b><u>Section 10</u></b> and <b><u>Section 8.09</u></b> (M/WBE, City Residency and Prevailing Wage) with respect to construction of Phase 1, and that 100% of the Developer’s MBE/WBE Commitment in <b><u>Section 10.03</u></b> has been fulfilled with respect to Phase 1.”</p>
Section 7.01 Certificate of Completion of Construction.	<p>Add the following new subsection 7.01 (d):</p> <p>“(d) notwithstanding any other provision of this Agreement to the contrary, for purposes of <b><u>Sections 8.01(j), 8.01(k), 8.06, 15.01(k)</u></b> and <b><u>15.04</u></b> only, the Substantial Completion Certificate shall be deemed to be the Final Completion Certificate if either of the following conditions has occurred:</p> <p>(i) the Developer <b>has not</b> obtained a Component Commencement Letter and commenced construction of Phase 2 by November 30, 2010 (subject to a single extension of up to 90 days at the City’s sole discretion pursuant to <b><u>Section 18.01</u></b>); or</p> <p>(ii) the Developer <b>has</b> obtained a Component Commencement Letter and commenced construction of Phase 2 no later than November 30, 2010 (subject to a single extension of up to 90 days at the City’s sole discretion pursuant to <b><u>Section 18.01</u></b>) but has failed to complete construction of Phase 2 by the later of:</p>

Section	Deletion and/or addition
	<p>(A) <b>March 31, 2012,</b></p> <p>(B) <b>September 27, 2012,</b> if the Developer has elected to delay completion of Phase 2 by up to 180 days pursuant to <b>Section 3.04,</b> or</p> <p>(C) <b>December 26, 2012,</b> if the Developer has elected to delay completion of Phase 2 by up to 180 days pursuant to <b>Section 3.04</b> and in addition the City, in its sole discretion pursuant to <b>Section 18.01,</b> has extended this time by a further 90 days.”</p>
<p>Section 7.02 Effect of Issuance of Certificate; Continuing Obligations</p>	<p>Delete <u>Section 7.02</u> and replace with the following:</p> <p><b><u>“7.02 Effect of Issuance of Certificate; Continuing Obligations.</u></b> The Certificate relates only to the construction of the applicable Component of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities with respect to such Component 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.</p> <p>Those covenants specifically described at <b><u>Sections 8.02, 8.06, 8.19</u></b> 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; <u>provided</u>, that upon the issuance of a Substantial Completion Certificate, the covenants set forth in <b><u>Section 8.02</u></b> shall be deemed to have been fulfilled with respect to Phase 1; and <u>provided, further</u>, that upon the issuance of a Final Completion Certificate, the covenants set forth in <b><u>Section 8.02</u></b> shall be deemed to have been fulfilled with respect to Phase 2. The other executory terms of this Agreement that remain after the issuance of a Final Completion Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to <b><u>Section 18.15</u></b> of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.</p> <p>Notwithstanding anything to the contrary contained in this Agreement, the Developer shall have no affirmative obligation to redevelop Phase 2; <u>provided, however</u>, that if the Developer elects to redevelop Phase 2, as evidenced by the Developer's written request that the City issue a Component Commencement Letter, then the Developer shall complete such redevelopment of Phase 2 in accordance with this</p>

Section	Deletion and/or addition
	Agreement.”
Section 8.02 Covenant to Redevelop	Delete the last sentence and replace with the following:  “The covenants set forth in this <b>Section 8.02</b> shall run with the leasehold estate and be binding upon any transferee, <u>provided</u> , that upon the issuance of a Substantial Completion Certificate, the covenants set forth in this <b>Section 8.02</b> shall be deemed to have been fulfilled with respect to Phase 1; and <u>provided, further</u> , that upon the issuance of a Final Completion Certificate, the covenants set forth in <b>Section 8.02</b> shall be deemed to have been fulfilled with respect to Phase 2.”
Section 8.06 Occupancy and Use; Employment	Delete the third paragraph of <u>Section 8.06(a)</u> and replace with the following:  Developer may lease space in the Project to tenants and for uses specified on <b>Exhibit O</b> , subject to the limitations described in the preceding paragraph, <u>provided</u> that Developer simultaneously shall use commercially reasonable efforts to secure: (i) Retail Store tenants providing specialty, high-quality fresh food including produce, cheese, imported foods, baked goods, chocolates, meat, fish and other specialty items; (ii) Retail Stores having, at the time of execution of the applicable lease, no more than two stores in the City of Chicago in addition to the store in the Project; and (iii) Restaurant tenants having, at the time of execution of the applicable lease, no more than two restaurants in the City of Chicago in addition to the restaurant in the Project.
Section 18.01 Amendment	Delete the phrase “it is acknowledged that if the Developer or its designee wishes to avail itself of the full extension time without City Council approval..... September 27, 2011.” and replace with the following:  “it is acknowledged that if the Developer or its designee wishes to avail itself of the full extension time without City Council approval, (a) the maximum extension time for completion of Phase 1 of the Project is 270 days, and will expire no later than December 26, 2010, and (b) the maximum extension time for completion of Phase 2 of the Project is 270 days, and will expire no later than December 26, 2012.”
Exhibit H-2 MBE/WBE Budget	Delete and replace with Exhibit H-2 MBE/WBE Budget in the form attached hereto as <u>Exhibit C</u> .
Exhibit P Form of Component Commencement Letter	At the end of the RDA, add a new <u>Exhibit P</u> Form of Component Commencement Letter in the form attached hereto as <u>Exhibit D</u> .

4. **Covenants, Representations and Warranties of Developer.** Developer covenants, represents and warranties that:

(a) such party has the right, power and authority to enter into, execute, deliver and perform this Amendment. The execution, delivery and performance by such party of this Amendment has been duly authorized by all necessary action, and does not and will not violate its

Articles of Organization, Articles of Incorporation, Operating Agreement or Bylaws, as applicable, any applicable provision of law, or constitute a breach of, default under or require the consent under any agreement, instrument or document to which such party is now a party or by which such party is now or may become bound; and

(b) such party is not in default with respect to any provision of the RDA, the MetraMarket Lease, the agreements evidencing the Lender Financing or any related agreements.

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

6. **No Effect on Recording Priority of RDA or Subordination Agreement.** The parties agree that entering into this Amendment shall have no effect on the recording priority of the RDA (or any outstanding subordination agreement that might relate thereto) and that this Amendment shall relate back to the dates that each of the RDA (or any outstanding subordination agreement that might relate thereto) were originally recorded in the land title records of Cook County, Illinois.

7. **No Change in Defined Terms.** All capitalized terms not otherwise defined herein, shall have the same meanings as set forth in the RDA.

8. **Other Terms in the RDA Remain; Conflict.**

(a) Except as explicitly provided in this Amendment, all other provisions and terms of the RDA shall remain unchanged.

(b) In the event of a conflict between any provisions of this Amendment and the provisions of the RDA, the provisions of this Amendment shall control. Other than as specifically modified hereby, the terms and conditions of the RDA shall remain in effect with respect to the parties thereto.

9. **Representations and Warranties of Developer.** Developer acknowledges and agrees that, notwithstanding any other terms or provisions of this Amendment to the contrary, Developer shall remain liable for all of its obligations and liabilities under the RDA.

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

11. **Recording and Filing.** Developer shall cause this Amendment to be recorded and filed on the date hereof against the Property legally described in Exhibit A hereto in the conveyance and real property records of the county in which the Property is located. Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, Developer shall immediately transmit to the City an executed original of this Amendment showing the date and recording number of record.

12. **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.



13. **Counterparts.** This Amendment 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.

14. **Governing Law.** This Amendment 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.

15. **Binding Effect.** This Amendment shall be binding upon Developer and the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of Developer and the City and their respective successors and permitted assigns (as provided herein).

16. **No Business Relationship with City Elected Officials.** Pursuant to Section 2-156-030(b) of the Municipal Code of Chicago, 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 official has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion of 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. Violation of Section 2-156-030(b) by any elected official, or any person acting at the direction of such official, with respect to the RDA or this Amendment or in connection with the transactions contemplated hereby and thereby, shall be grounds for termination of the RDA or this Amendment and the transactions contemplated hereby and thereby. 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 Amendment or the transactions contemplated thereby.

(Signatures to follow)

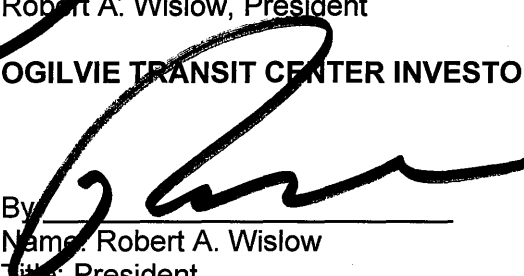
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed on or as of the day and year first above written.

**METRAMARKET OF CHICAGO, L.L.C.**

By: U.S. Equities, Inc., its Manager

By:   
Robert A. Wislow, President

**OGILVIE TRANSIT CENTER INVESTOR, INC.**

By:   
Name: Robert A. Wislow  
Title: President

**CITY OF CHICAGO**

By: \_\_\_\_\_  
Arnold L. Randall  
Commissioner, Department of Planning and  
Development

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

**METRAMARKET OF CHICAGO, L.L.C.**

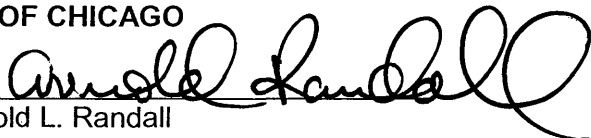
By: U.S. Equities, Inc., its Manager

By: \_\_\_\_\_  
Robert A. Wislow, President

**OGILVIE TRANSIT CENTER INVESTOR, INC.**

By: \_\_\_\_\_  
Name: Robert A. Wislow  
Title: President

**CITY OF CHICAGO**

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



STATE OF ILLINOIS )  
                                  ) SS  
COUNTY OF COOK )

I, Jacqueline Cintron, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Robert A. Wislow, personally known to me to be the President of Ogilvie Transit Center Investor, Inc., an Illinois corporation ("OTCI"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument, pursuant to the authority given to him by OTCI, as his free and voluntary act and as the free and voluntary act of OTCI, for the uses and purposes therein set forth.

2004 GIVEN under my hand and official seal this 17<sup>th</sup> day of November.



Jacqueline Cintron  
Notary Public

My Commission Expires 2-1-2013

(SEAL)

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Cynthia A. Garza, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Arnold L. Randall, personally known to me to be the Commissioner of the Department of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/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 14 th day of November, 2008.



Cynthia A. Garza  
Notary Public

My Commission Expires 6-25-2011

**Exhibit A  
to First Amendment**

**Property**

All that part of Block 28, and vacated alley within said Block 28, lying below an inclined plane whose Southern limit is the South line of said Block 28 at an elevation of +33.50 feet and whose Northern limit is the North line of said Block 28 at an elevation of +28.40 feet and lying above a horizontal plane having an elevation of +13.00 feet in relation to the City of Chicago Datum; also

All that part of Block 45, and the vacated alleys in said Block 45, lying Northerly of the North line of the Southerly 20.00 feet thereof, lying below a horizontal plane having an elevation of +34.00 feet and lying above a horizontal plane having an elevation of +13.00 feet in relation to the City of Chicago Datum;

Both in the Original Town of Chicago, being a Subdivision in the South part of Section 9, Township 39 North, Range 14, East of the Third Principal Meridian,

Excepting from the above described property the trestlework, foundations, columns, supports and appurtenances thereto supporting the railroad terminal located above the described horizontal and inclined planes, and also excepting therefrom the Track Level Platform, the Suburban Concourse, the Excepted Areas and the Parking Area (said Parking Area being located solely within Block 28 aforesaid), each as further defined and described in the Lease;

in Cook County, Illinois.

PINs:

17-09-324-005-0000  
17-09-324-007-0000  
17-09-333-007-0000  
17-09-333-008-0000  
17-09-333-009-0000  
17-09-333-010-8001  
17-09-333-010-8002

**Exhibit B  
to First Amendment**

**SECTION 5A. CONDITIONS PRECEDENT TO THE  
COMPONENT COMMENCEMENT LETTER**

**5A.01 Developer Obligations.** The Developer covenants not to commence construction of Phase 2 (referred to as the "Component" in this **Section 5A**) until the Developer has requested in writing, and the City has issued and delivered to the Developer, a Component Commencement Letter for that Component pursuant to this **Section 5A**. The Developer's delivery of such request for a Component Commencement Letter shall constitute a certification to the City, as of the date of such request, that 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 under this Agreement or any related agreement, and the representations and warranties contained in this Agreement and any related agreement are true and correct. The following conditions shall have been complied with to the City's satisfaction on or prior to the issuance of the Component Commencement Letter:

(a) Project Budget. The Developer has submitted to DPD, and DPD has approved, a Project Budget for the Component in accordance with the provisions of **Section 3.03** hereof;

(b) Scope Drawings and Plans and Specifications. The Developer has submitted to DPD, and DPD has approved, the Scope Drawings and Plans and Specifications for the Component in accordance with the provisions of **Section 3.02** hereof;

(c) Other Governmental Approvals. The Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation for the Component and has submitted evidence thereof to DPD;

(d) Financing. The Developer has furnished proof satisfactory to the City that the Developer has Equity, Construction Allowance and/or Lender Financing in the amounts set forth in **Section 4.01** hereof to complete the Component and satisfy its obligations under this Agreement;

(e) Title. The Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, dated within ten days of the date the Developer submits the request for a Component Commencement Letter, showing the Developer as the named insured and satisfying the requirements described in **Section 5.05**;

(f) Evidence of Clean Title. The Developer, at its own expense, has provided the City with searches, updated within ten days of the date the Developer submits the request for a Component Commencement Letter, as described under **Section 5.06**, showing no liens against the Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens;

(g) Surveys. The Developer has furnished the City with three (3) copies of the Survey, dated within ten days of the date the Developer submits the request for a Component Commencement Letter;



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

(i) Opinion of the Developer's Counsel. On the date the Developer submits the request for a Component Commencement Letter, 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; provided, that 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;

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

(k) Documentation. The Developer has provided documentation satisfactory to DPD with respect to current employment matters on Phase 1 and Phase 2 of the Project, the MBE/WBE utilization plan for Phase 2 of the Project, and a progress report containing all current information, if any, requested under **Section 8.07** herein;

(l) Environmental. The Developer has provided DPD with copies of any updated or new phase I environmental audit or phase II environmental audit with respect to the Property, other than those previously delivered to the City under **Section 5.12**, together with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits;

(m) Corporate Documents; Economic Disclosure Statement. The Developer has provided a copy of its Articles of Organization or Articles of Incorporation, as applicable, containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and all other states in which the Developer is qualified to do business; a secretary's certificate or similar instrument in such form and substance as the Corporation Counsel may require; operating agreement of the entity; and such other organizational documentation as the City has requested; and an Economic Disclosure Statement, in the City's then current form, dated the date the Developer submits the request for a Component Commencement Letter;

(n) Litigation. The Developer has provided to the Corporation Counsel and DPD a description of all pending or threatened litigation or administrative proceedings involving the Developer that will or may affect the ability of the Developer to complete the pending Component of the Project in accordance with this Agreement, 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;

(o) Leases. Except as already provided to the City in connection with a prior Component, the Developer has provided to the City copies of all executed operating leases, purchase or sale agreements and letters of intent relating to Phase 2, if any, a copy of the form lease(s), and a summary aggregating total tenant occupancy figures and base rent payments in a manner satisfactory to the City;

(p) Construction Contract. The Developer has submitted a copy of the Construction Contract for the pending Component of the Project pursuant to the requirements of **Section 6.01** herein; and

(q) Non-Commencement of Construction. Construction on the Component has not yet commenced.

**5A.02 City Actions.** Upon the City's satisfaction with the Developer's documents as set forth in Section 5A.01 above for each pending Component of the Project, City will issue a Component Commencement Letter to Developer in the form set forth in Exhibit P hereto.

**Exhibit C  
to First Amendment**

**Exhibit H-2 MBE/WBE Budget**

		<b>Phase 1 Total</b>	<b>Phase 2 Total</b>	<b>Project Total</b>
<b>Hard Costs</b>				
Phase 1		\$ 11,940,480	\$ 0	\$ 11,940,480
Phase 2		\$ 0	\$ 3,500,000	\$ 3,500,000
Plus: Landscaping & Sidewalks		\$ 50,000	\$ 0	\$ 50,000
Plus: Waterproofing		\$ 1,750,000	\$ 0	\$ 1,750,000
Subtotal		\$ 13,740,480	\$ 3,500,000	\$ 17,240,480
<b>Soft Costs</b>				
Consultants		\$ 86,850	\$ 86,850	\$ 173,700
Professional Fees		\$ 1,539,409	\$ 1,152,203	\$ 2,691,612
Marketing		\$ 148,000	\$ 148,000	\$ 296,000
Subtotal		\$ 1,774,259	\$ 1,387,053	\$ 3,161,312
<b>Subtotal Hard and Soft Costs</b>		<b>\$ 15,514,739</b>	<b>\$ 4,887,053</b>	<b>\$ 20,401,792</b>
<b>Minority-Owned Business Enterprise (minimum)</b>	24%	<b>\$ 3,723,537</b>	<b>\$ 1,172,893</b>	<b>\$ 4,896,430</b>
<b>Women-Owned Business Enterprise (minimum)</b>	4%	<b>\$ 620,590</b>	<b>\$ 195,482</b>	<b>\$ 816,072</b>

**Exhibit D  
to First Amendment**

**Form of Component Commencement Letter**

[prepare on DPD letterhead]

[date]

MetraMarket of Chicago, L.L.C.  
Ogilvie Transit Center Investor, Inc.,  
c/o U.S. Equities Realty  
20 N. Michigan Avenue  
Chicago, Illinois 60602

Re: Approval to Commence Construction of Phase 2 at ground floor of Metra's Ogilvie Transportation Center property bounded by Washington Street on the south, Canal Street on the east, Clinton Street on the west, and Lake Street to the north, under the terms and conditions of the Redevelopment Agreement between the City of Chicago, MetraMarket of Chicago, L.L.C. and Ogilvie Transit Center Investor, Inc.

Ladies and Gentlemen:

Pursuant to that certain Redevelopment Agreement ("Agreement") dated \_\_\_\_\_ by and between The City of Chicago ("City"), MetraMarket of Chicago, L.L.C. ("MetraMarket") and Ogilvie Transit Center Investor, Inc. ("OTCI"; jointly and severally with MetraMarket, individually and collectively, the "Developer"), Developer has requested that the City approve Developer's commencement of Phase 2 of the Project (as defined in the Agreement). For purposes of this letter, Phase 2 is referred to as the "Component." In support thereof, Developer has submitted a number of documents to the Department of Planning and Development ("DPD").

DPD has reviewed the following documents and information supplied to it by Developer (all section references and capitalized terms below are set forth in or defined in the Agreement):

(a) a Project Budget for the Component in accordance with the provisions of Section 3.03;

(b) the Scope Drawings and Plans and Specifications for the Component in accordance with the provisions of Section 3.02;

(c) evidence of the existence of all other necessary approvals and permits required by any state, federal or local statute, ordinance or regulation for the Component;

(d) evidence that the Developer has Equity, Construction Allowance and/or Lender Financing in the amounts set forth in Section 4.01 sufficient to complete the Component and satisfy its obligations under the Agreement;

(e) a copy of the Title Policy for the Property satisfying the requirements described in Section 5.05;

(f) searches as described under Section 5.06, showing no liens against the Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens;

(g) the Survey of the Property;

(h) certificates of insurance evidencing that the Developer, at its own expense, has insured the Property in accordance with Section 12;

(i) an opinion of Developer's counsel, substantially in the form attached as Exhibit J to the Agreement;

(j) evidence of Prior Expenditures, if any, pertaining to the Component in accordance with the provisions of Section 4.05(a);

(k) documentation with respect to current employment matters on Phase 1 and Phase 2 of the Project, the MBE/WBE utilization plan for Phase 2 of the Project, and a progress report containing all current information, if any, requested under Section 8.07;

(l) copies of any updated or new phase I environmental audit or phase II environmental audit with respect to the Property, together with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits;

(m) copies of the Developer's Articles of Organization or Articles of Incorporation, as applicable, containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and all other states in which the Developer is qualified to do business; a secretary's certificate or similar instrument in such form and substance as the Corporation Counsel may require; operating agreement of the entity; and such other organizational documentation as the City has requested; and an Economic Disclosure Statement, in the City's then current form;

(n) a description of all pending or threatened litigation or administrative proceedings involving the Developer that will or may affect the ability of the Developer to complete the pending Component of the Project in accordance with the Agreement, 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;

(o) except as already provided to the City in connection with Phase 1, copies of all executed operating leases, purchase or sale agreements and letters of intent relating to the Project, if any, a copy of the form lease(s), and a summary aggregating total tenant occupancy figures and base rent payments;

(p) a copy of the Construction Contract for Phase 2 of the Project pursuant to the requirements of Section 6.01; and

(q) evidence that construction on the pending Component has not yet commenced.

Having reviewed all of the above documents and information and found them sufficient, I declare that the City is satisfied that the Developer may proceed with the commencement of construction on Phase 2 of the Project.

CITY OF CHICAGO

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Commissioner  
Department of Planning and Development