

EXHIBIT 1

ADOPT-A-LANDMARK FLOOR AREA BONUS AGREEMENT

(Attached)

ADOPT-A-LANDMARK FLOOR AREA BONUS AGREEMENT

This **ADOPT-A-LANDMARK FLOOR AREA BONUS AGREEMENT** ("Agreement") is made on or as of the _____ day of _____, 20__ (the "Effective Date"), by and between the **CITY OF CHICAGO**, an Illinois municipal corporation and home rule unit of government ("City"), acting by and through its Department of Planning and Development (together with any successor department thereto, the "Department"), having its principal offices at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602, the **COMMISSION ON CHICAGO LANDMARKS** ("CCL"), having its principal offices at 121 North LaSalle Street, Room 1101, Chicago, Illinois 60602, and ECG MADISON, LLC, an Illinois limited liability company (the "Landmark Owner"), whose principal place of business is located at 167 N. Green, 4th Floor Chicago, Illinois 60607.

RECITALS

WHEREAS, Section 17-4-1000 of the Chicago Zoning Ordinance (the "Downtown Bonus Ordinance") authorizes the City to award floor area bonuses to projects located in "D" districts in return for a financial contribution to the City ("Bonus Payment"); and

WHEREAS, the Bonus Payment is deposited into three funds: (i) the Neighborhood Opportunity Fund, (ii) the Citywide Adopt-a-Landmark Fund (which receives 10% of each Bonus Payment), and (iii) the Local Impact Fund; and

WHEREAS, the purpose of the Citywide Adopt-a-Landmark Fund is to finance landmark restoration projects; and

WHEREAS, pursuant to Section 17-4-1006-C-4 of the Chicago Zoning Ordinance, the Department developed a list of funding priorities for the award of grants under the Citywide Adopt-a-Landmark Fund ("Funding Priorities"); and

WHEREAS, on March 17, 2023, the Department announced that it was accepting applications for landmark restoration projects; and

WHEREAS, the Department received 31 applications, four of which were eliminated because they did not satisfy the eligibility criteria (for example, the subject building is not a designated landmark); and

WHEREAS, the Department evaluated the applications based on the Funding Priorities, and determined that the Landmark Owner's application was one of the applications that best satisfied the Funding Priorities; and

WHEREAS, by ordinance adopted on April 24, 2012, the City Council of the City (the "City Council") designated the (Former) Mid-City Trust and Savings Bank (the "Landmark Building") a Chicago Landmark; and

WHEREAS, the Landmark Building is located at 801 W. Madison Street/2 S. Halsted Street in Chicago (the "Landmark Property," as described on Exhibit A hereto); and

WHEREAS, the Landmark Building requires certain preservation work, as described in the scope of work ("Project Scope of Work") and budget ("Project Budget") attached hereto as part of Exhibit B (such work, the "Project"); and

WHEREAS, on March 7, 2024, the Commission on Chicago Landmarks ("CCL") approved the Project subject to the "Conditions of Approval" attached hereto as part of Exhibit B, and recommended the use of bonus funds for the Project (the "Project Resolution"); and

WHEREAS, the Project satisfies the requirements of Sec. 17-4-1006-C of the Chicago Zoning Ordinance with respect to authorized uses of the Citywide Adopt-a-Landmark Fund; and

WHEREAS, the Department wishes to award the Landmark Owner a grant in the amount of \$1,300,000 from funds deposited in the Citywide Adopt-a-Landmark Fund (the "Grant Funds") to undertake the Project; and

WHEREAS, Landmark Owner desires to accept the Grant Funds and perform the Project in accordance with 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 agree as follows:

SECTION 1. INCORPORATION OF RECITALS AND DEFINITIONS.

The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

"Advance" shall have the meaning set forth in Section 4.5(a) below.

"Applicable Laws" means all federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, as well as all policies, programs and procedures of the CCL, as may be in effect from time to time, pertaining to or affecting the Landmark Building, the Landmark Property and the Project.

"Commissioner" means the Commissioner of the Department of Planning and Development.

"Construction Contract" is defined in Section 2.

"Contractor" means Bulley and Andrews, LLC.

"Escrow Agent" means _____.

"Governmental Approvals" means all necessary building permits and other governmental approvals for the Project.

"Project Budget" means the budget for the Project attached hereto as part of Exhibit B.

“Project Construction Schedule” means the construction schedule attached hereto as Exhibit C.

SECTION 2. PERFORMANCE OF THE PROJECT.

2.1 Landmark Owner shall complete the Project in accordance with the terms and conditions of this Agreement, all Applicable Laws, the Project Scope of Work, the Project Budget and Conditions of Approval all attached hereto as Exhibit B. Landmark Owner shall timely pay any and all invoices for the performance of the Project.

2.2 No material deviation from the Project Scope of Work, Project Budget and Conditions of Approval may be made without the prior written consent of the Department.

2.3 Landmark Owner represents and warrants that Contractor is the general contractor for the Project. Landmark Owner shall enter into a contract with the general contractor for the Project (the “Construction Contract”) which provides for the completion of the work in accordance with the Project Construction Schedule. Landmark Owner may not modify or amend the Construction Contract including, but not limited to change orders, without providing Notice to the Department. Landmark Owner shall be permitted to allocate any contingency amounts contained in the Project Budget to various other line items in such budget.

2.4 In all contracts relating to the Project, the Landmark Owner shall require the general contractor and any subcontractors to name the City as an additional insured on insurance coverages and to require the general contractor and any subcontractors to indemnify the City from all claims, damages, demands, losses, suits, actions, judgments and expenses including but not limited to attorney’s fees arising out of or resulting from work on the Project by the general contractor or the general contractor’s subcontractors, suppliers, employees, or agents.

2.5 Landmark Owner has engaged, to be paid out of the Project Budget at Landmark Owner’s sole cost and expense, an independent third-party inspecting architect or engineer, _____ (the “Third-Party Architect/Engineer”), who or which is hereby approved by the Department, to ensure on behalf of the City that the Scope of Work is completed as scheduled. The Third-Party Architect/Engineer shall have extensive experience with historic rehabilitation projects and shall act on behalf of the Department to monitor the progress of the construction of the Project. The Third-Party Architect/Engineer and Landmark Owner shall enter into an agreement (the “Project Engineer Agreement”), satisfactory to the Department, which shall require the Third-Party Architect/Engineer or its agent to provide the following services for the Department at Landmark Owner’s sole cost and expense:

(a) inspection of all construction work performed by Landmark Owner and its general contractor and any subcontractors, without causing unreasonable interference with or delays in construction, to assure the Department that the Project is being/has been constructed in compliance with the Project Scope of Work, the final working drawings and specifications for the Project and the terms and provisions of this Agreement;

(b) preparation of monthly field reports on progress of construction;

(c) determination of the adequacy of the funds in escrow or otherwise to pay for the Project; and

(d) providing a certification for the benefit of the City on the form attached hereto as Exhibit F that the construction of the Project complies with the Project Scope of Work and is substantially complete, subject only to the completion of punch list items (“Conditional Certificate”). The Third-Party Architect/Engineer shall notify the Department of any discrepancies between the Project Scope of Work and the actual construction of the Project. The Department’s receipt of the Conditional Certificate shall be a condition precedent to the final disbursement of the Grant Funds to Landmark Owner. A representative of the Department shall have the right, but not the obligation, to accompany the Third-Party Architect/Engineer during his or her inspection of the Project.

SECTION 3. BUILDING PERMITS AND OTHER GOVERNMENTAL APPROVALS.

Landmark Owner shall apply for all Governmental Approvals in accordance with the Project Construction Schedule, and covenants and agrees to pursue the Governmental Approvals in good faith and with all due diligence.

SECTION 4. PROJECT BUDGET.

4.1 The current estimate of the cost of the Project is \$53,000,000. The Landmark Owner has delivered to the Commissioner, and the Commissioner hereby approves, a detailed budget for the Project, which is attached hereto and incorporated herein as Exhibit E (the “Final Project Budget”), and which is materially consistent with the Project Budget approved by the CCL and attached hereto as part of Exhibit B. The Landmark Owner certifies that it has identified sources of funds (including the Grant Funds) sufficient to complete the Project. The Landmark Owner understands and agrees that the City will only contribute the Grant Funds to the Project and that all costs of completing the Project in excess of the Grant Funds shall be the sole responsibility of the Landmark Owner. If the Landmark Owner at any point does not have sufficient funds to complete the Project, the Landmark Owner shall so notify the City in writing, and the Landmark Owner may narrow the scope of the Project as agreed with the City in order to complete the Project.

4.2 If Landmark Owner completes the Project with Grant Funds still remaining in the Escrow Account (as defined in Section 4.5(a) below), the Landmark Owner shall have no claim to such remainder, and such remainder shall be returned to the City; provided, however, in the City’s sole discretion, the Landmark Owner may submit plans and specifications for additional landmark work to the Commissioner for review and approval, and, if approved, shall perform such additional work to be funded in part by such remainder (pursuant to Section 4.5(a) below).

4.3 If requested by the City, the Landmark Owner shall provide to the City quarterly reports on the progress of the Project and reasonable access to its books and records relating to the Project.

4.4 From the Effective Date through the date of the Certificate of Completion (as hereinafter defined) (such timeframe, the “Term of this Agreement”) During the term hereof the Landmark Owner shall not sell, transfer, convey or otherwise dispose of all or any portion of the Landmark Property or any interest therein, or otherwise effect or consent to a transfer, without the prior written consent of the City.

4.5 Joint Order Construction Escrow.

(a) Landmark Owner shall set up a construction escrow account (the "Escrow Account") with the Escrow Agent for the City's deposit of the Grant Funds. The disbursement of funds from the Escrow Account shall be governed by a construction escrow agreement among the City, the Landmark Owner, and the Escrow Agent, in substantially the form attached hereto as Exhibit G (the "Construction Escrow Agreement"). The Construction Escrow Agreement shall provide, among other things: first, that the Grant Funds shall be deposited in full upon opening of the Escrow Account; and, second, that **after** the City's issuance of the Certificate of Completion Landmark Owner shall promptly deliver to Escrow Agent and the Third-Party Architect/Engineer an AIA Application and Certificate for payment (each, a "Draw") completed by or on behalf of Landmark Owner (or other statement in a form reasonably satisfactory to the City) setting forth, among other things, the amount of the funds (such funds being referred to herein as an "Advance") requested in each instance and also including:

(i) the hard and soft cost statements;

(ii) a cost certification from the Contractor in a form reasonably satisfactory to the Third-Party Architect/Engineer regarding the work or materials covered by the Draw;

(iii) full or conditional, as applicable, lien waivers from all contractors, subcontractors or suppliers who supplied materials or performed work covered by the Draw in form and substance reasonably satisfactory to the Third-Party Architect/Engineer; and

(iv) proof of payment of soft costs covered by the previous Draw, in a form reasonably satisfactory to the Third-Party Architect/Engineer.

(b) The Third-Party Architect/Engineer shall review each Draw to confirm work included in such Draw is part of the Project.

(c) Draws must be received by the Third-Party Architect/Engineer at least fifteen (15) business days prior to the date of the requested disbursement of the Advance from the Escrow Account and, if approved, the Third-Party Architect/Engineer will provide written notice to the Escrow Agent to disburse an amount equal to the Advance from the Escrow Account pursuant to the Draw. The failure of the Third-Party Architect/Engineer to approve or disapprove a Draw request within fifteen (15) business days of submission by Landmark Owner shall be deemed a disapproval of such draw request.

(d) The Construction Escrow Agreement shall provide that an interim mechanic's lien endorsement to Landmark Owner's title insurance policy shall be issued with respect to each Draw.

SECTION 5. CONDITIONS TO CITY'S DISBURSEMENT OF GRANT FUNDS.

The obligation of the City to disburse the Grant Funds to the Landmark Owner is contingent upon each of the following conditions being satisfied as of the Effective Date, or on such other date as may be specified below, unless waived in writing by the Commissioner:

5.1 Escrow Account. Landmark Owner shall have established the Escrow Account, and the Construction Escrow Agreement shall be in full force and effect.

5.2 Governmental Approvals. Landmark Owner shall have obtained all Governmental Approvals.

5.3 Construction Contract. Landmark Owner shall have delivered, and the City shall have approved, a true and complete copy of the Construction Contract to the City.

5.4 Insurance. Landmark Owner shall have submitted to the City, and the City shall have approved, evidence of insurance required pursuant to Exhibit D.

5.5 Representations and Warranties. Each of the representations and warranties of Landmark Owner in this Agreement shall be true and correct.

5.6 Resolutions Authorizing Transaction. Landmark Owner shall have delivered to the City resolutions authorizing Landmark Owner to execute and deliver this Agreement, the Construction Escrow Agreement, and any other documents required to complete the transaction contemplated by this Agreement and to perform its obligations under this Agreement, and such other corporate authority and organizational documents as the City may reasonably request.

5.7 Proof of Financing. Not less than three (3) months after the Effective Date, Landmark Owner shall have submitted to the Department, and the Department shall have approved, proof reasonably acceptable to the Department that Landmark Owner has equity and/or lender financing in amounts adequate to complete the construction of the Project and satisfy its obligations under this Agreement.

5.8 Title. Landmark Owner shall have delivered to the Department a copy of the title insurance policy (or a title report) for the Property, showing Landmark Owner as the named insured (or as the owner of the Property).

5.9 Economic Disclosure Statement. Landmark Owner shall have delivered to the Department an Economic Disclosure Statement and Affidavit in the City's then current form, dated as of the Effective Date.

5.10 Debt and Scofflaw Check. Landmark Owner shall have submitted to the Department a completed "Principal Profile Form" in the City's then current form for any person holding a direct or indirect ownership interest of more than 7.5% Landmark Owner (or, if Landmark Owner is a not-for-profit entity, any person who is a director or trustee of Landmark Owner), and the City has confirmed that no such person either (a) has any outstanding debt to the City, or if there is any outstanding debt, that all such outstanding obligations have been satisfied, or (b) has been identified as a building code scofflaw or problem landlord pursuant to Section 2-92-416 of the Municipal Code.

If any of the conditions in this Section 5 have not been satisfied to the Department's reasonable satisfaction within the time periods provided for herein, or waived by the Department, the Department may, at its option, upon thirty (30) days' prior written notice to Landmark Owner, terminate this Agreement at any time after the expiration of the applicable time period, in which

event this Agreement shall be null and void and, except as otherwise specifically provided, neither party shall have any further right, duty or obligation hereunder; provided, however, that if within said thirty (30) day notice period Landmark Owner satisfies said condition(s), then the termination notice shall be deemed to have been withdrawn. Any forbearance by the Department in exercising its right to terminate this Agreement upon a default hereunder shall not be construed as a waiver of such right.

SECTION 6. CITY'S RIGHT TO INSPECT LANDMARK PROPERTY.

For the period commencing on the Effective Date and continuing through the date the City issues the Certificate of Completion, any duly authorized representative of the City shall have access to the Landmark Property at all reasonable times Monday through Friday during regular construction hours after 48-hours' notice to Landmark Owner for the purpose of determining whether Landmark Owner is constructing the Project in accordance with the terms of this Agreement.

SECTION 7. LIMITED APPLICABILITY.

Any approval given by the Department or CCL pursuant to this Agreement is for the purpose of this Agreement only and does not constitute the approval required by the City's Department of Buildings or any other City department, nor does such Department or CCL approval constitute an approval of the quality, structural soundness or safety of any improvements located or to be located on the Landmark Building, or the compliance of said improvements with any laws, private covenants, restrictions of record, or any agreement affecting the Landmark Building.

SECTION 8. COMMENCEMENT AND COMPLETION OF PROJECT.

Subject to the receipt of all applicable Government Approvals, Landmark Owner shall complete the Project in accordance with the Project Construction Schedule. The Commissioner shall have discretion to extend any of the construction commencement and completion dates for good cause shown by issuing a written extension letter. Landmark Owner shall give written notice confirming the construction commencement date to the City within five (5) days after it commences the Project.

SECTION 9. CERTIFICATE OF COMPLETION.

Upon the completion of the Project in accordance with this Agreement, Landmark Owner shall request from the Department a certificate of completion ("Certificate of Completion"). Such request shall include: a summary of the final Project costs, (iii) a then-current summary of Draws and Advances from the Escrow Account for the Project, (iv) photos of the completed Project, (v) copies of all permits, (vi) a letter from the architect of record certifying the Project Scope of Work is complete, and (vii) the Third-Party Architect/Engineer's Conditional Certificate pursuant to Section 2.5(f).

Within thirty (30) days after receipt of a written request for a Certificate of Completion, the Department shall provide Landmark Owner with either the Certificate of Completion or a written statement indicating in adequate detail how Landmark Owner has failed to complete the Project in conformity with this Agreement, or is otherwise in default, and what measures or acts

will be necessary for Landmark Owner to take or perform in order to obtain the Certificate of Completion. If the Department requires additional measures or acts to assure compliance, Landmark Owner shall resubmit a written request for the Certificate of Completion upon compliance with the Department's response. The Certificate of Completion shall not constitute evidence that Landmark Owner has complied with any laws relating to the construction of the Project and shall not serve as any "guaranty" as to the quality of the construction.

The Department's issuance of the Certificate of Completion shall be a condition precedent to the final disbursement of the Grant Funds to Landmark Owner.

SECTION 10. PERFORMANCE AND BREACH.

10.1 Time of the Essence. Time is of the essence in Landmark Owner's performance of its obligations under this Agreement.

10.2 Permitted Delays. Landmark Owner shall not be considered in breach of its obligations under this Agreement in the event of a delay due to unforeseeable causes beyond Landmark Owner's control, and without Landmark Owner's fault or negligence, including, without limitation, acts of God, acts of the public enemy, acts of the United States government, significant supply chain disruptions, port closures, fires, floods, epidemics, quarantine restrictions, strikes, embargoes and unusually severe weather or delays of subcontractors due to such causes. The time for the performance of the obligations shall be extended only for the period of the delay and only if Landmark Owner, within thirty (30) days after the beginning of any such delay, submits to the Commissioner a written request for an extension. As referenced in Section 8, the Commissioner shall have discretion to extend any of the construction commencement and completion dates for good cause shown and shall issue a written extension letter within ten (10) days of receipt of a request for extension.

10.3 Cure. If Landmark Owner defaults in the performance of its obligations under this Agreement, Landmark Owner shall have thirty (30) days after written notice of default from the City to cure the default, or such longer period as shall be reasonably necessary (in the sole determination of the Commissioner) to cure such default provided Landmark Owner promptly commences such cure and thereafter diligently pursues such cure to completion (so long as continuation of the default does not create material risk to the Project or to persons using the Project).

10.4 Events of Default. The occurrence of any one or more of the following shall constitute an "Event of Default" under this Agreement:

(a) Landmark Owner makes or furnishes a warranty, representation, statement or certification to the City (whether in this Agreement, an Economic Disclosure Statement and Affidavit, or another document) that is not true and correct.

(b) Landmark Owner fails to commence or complete the Project in accordance with the Project Construction Schedule (unless such dates are amended pursuant to the procedures set forth in Section 8 herein), or Landmark Owner abandons or substantially suspends construction of the Project.

(c) Landmark Owner fails to perform, keep or observe any of the other covenants, conditions, promises, agreements or obligations under this Agreement or any other written agreement entered into with the City with respect to the Project.

10.5 City Remedies. If an Event of Default occurs and the default is not cured in the time period provided for in Section 10.3 above, the City may terminate this Agreement, and institute any action or proceeding at law or in equity against Landmark Owner.

SECTION 11. CONFLICT OF INTEREST; CITY'S REPRESENTATIVES NOT INDIVIDUALLY LIABLE.

Landmark Owner represents and warrants that no agent, official or employee of the City shall have any personal interest, direct or indirect, in Landmark Owner, this Agreement, the Landmark Property or the Project, nor shall any such agent, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, association or other entity in which he or she is directly or indirectly interested. No agent, official or employee of the City shall be personally liable to Landmark Owner or any successor in interest in the event of any default or breach by the City or with respect to any commitment or obligation of the City under the terms of this Agreement.

SECTION 12. INDEMNIFICATION.

Landmark Owner agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, reasonable attorneys' fees and court costs) (collectively, "Losses") suffered or incurred by the City arising from or in connection with: (a) the failure of Landmark Owner to perform its obligations under this Agreement; (b) the failure of Landmark Owner or any contractor or other agent, entity or individual acting under the control or at the request of Landmark Owner ("Agent") to pay contractors, subcontractors or material suppliers in connection with the construction and management of the Project; (c) any misrepresentation or omission made by Landmark Owner or any Agent of Landmark Owner; (d) the failure of Landmark Owner to redress any misrepresentations or omissions in this Agreement or any other agreement relating hereto; and (e) any activity undertaken by Landmark Owner or any Agent of Landmark Owner on the Landmark Property prior to or after the Effective Date. This indemnification shall survive the expiration or any termination of this Agreement (regardless of the reason for such termination). Landmark Owner acknowledge that the requirements set forth in this Section 12 to indemnify, keep and save harmless and defend the City are apart from and not limited by the insurance requirements under Section 5.

SECTION 13. LANDMARK OWNER'S EMPLOYMENT OBLIGATIONS.

13.1 Landmark Owner agrees, and shall contractually obligate its contractors, subcontractors and any Affiliate (as defined in Section 17) of Landmark Owner (collectively, "Employers" and each individually, an "Employer") to agree, that with respect to the provision of services in connection with the Project:

(a) Neither Landmark Owner nor any Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, gender identity,

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, Section 2-160-010 et seq. of the Municipal Code of Chicago, as amended from time to time (the "Human Rights Ordinance"). Landmark Owner and each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon the foregoing grounds, 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. Landmark Owner and 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, Landmark Owner and each Employer, in all print solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon the foregoing grounds.

(b) Landmark Owner and each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including, without limitation, the 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.

(c) Landmark Owner and each Employer shall include the foregoing provisions of subparagraphs (a) and (b) 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 Landmark Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(d) Failure to comply with the employment obligations described in this Section 13 shall be a basis for the City to pursue remedies under the provisions of Section 10.

13.2 City Resident Construction Worker Employment Requirement. Landmark Owner 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 (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, Landmark Owner, 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.

Landmark Owner 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 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.

Landmark Owner, 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 DPD 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.

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

At the direction of DPD, affidavits and other supporting documentation will be required of Landmark Owner, 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 Landmark Owner, 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 Landmark Owner 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 Landmark Owner 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 Landmark Owner, the general contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to Landmark Owner pursuant to Section 2-92-250 of the Municipal Code may be withheld by the City pending the Chief Procurement Officer's determination as to whether Landmark Owner 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.

Landmark Owner shall cause or require the provisions of this Section 13.2 to be included in all construction contracts and subcontracts related to the Project.

13.3 MBE/WBE Commitment. Landmark Owner 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 (the “Procurement Program”), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code (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 13.3, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as set forth in Exhibit H hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 26 percent by MBEs.
- (2) At least six percent by WBEs.

(b) For purposes of this Section 13.3 only, Landmark Owner (and any party to whom a contract is let by Landmark Owner in connection with the Project) shall be deemed a “contractor” and this Agreement (and any contract let by Landmark Owner 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, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code, Landmark Owner's MBE/WBE commitment may be achieved in part by Landmark Owner's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by Landmark Owner) 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 Landmark Owner 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 an MBE and a WBE shall not be credited more than once with regard to Landmark Owner's MBE/WBE commitment as described in this Section 13.3. In accordance with Section 2-92-730, Municipal Code, Landmark Owner shall not substitute any MBE or WBE general contractor or subcontractor without the prior written approval of DPD.

(d) Landmark Owner 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 Landmark Owner 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 Landmark Owner's compliance with this MBE/WBE commitment. Landmark Owner 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 Landmark Owner, on five Business Days' notice, to allow the City to review Landmark Owner'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, Landmark Owner 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, as applicable.

(f) Any reduction or waiver of Landmark Owner's MBE/WBE commitment as described in this Section 13.3 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code, as applicable.

(g) Prior to the commencement of the Project, Landmark Owner shall be required to meet with the City's monitoring staff with regard to Landmark Owner's compliance with its obligations under this Section 13.3. The general contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, Landmark Owner shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 13.3, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, Landmark Owner shall submit the documentation required by this Section 13.3 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 Landmark Owner is not complying with its obligations under this Section 13.3, shall, upon the delivery of written notice to Landmark Owner, 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 Landmark Owner to halt the Project, (2) withhold any further payment of any City Funds to Landmark Owner or the general contractor, or (3) seek any other remedies against Landmark Owner available at law or in equity.

13.4 Prevailing Wage Rates. The Landmark Owner and its general contractor and all subcontractors must pay the prevailing wage rate as ascertained by the Illinois Department of Labor ("IDOL") to all persons working on the Project. 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 IDOL revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Landmark Owner shall provide the City with copies of all such contracts entered into by the Landmark Owner or its general contractor to evidence compliance with this Section 13.4.

SECTION 14. REPRESENTATIONS AND WARRANTIES.

14.1 Representations and Warranties of the City. To induce Landmark Owner to execute this Agreement and perform its obligations hereunder, the City hereby represents and warrants to Landmark Owner that the City has authority under its home rule powers to execute and deliver this Agreement and perform the terms and obligations contained herein.

14.2 Representations and Warranties of Landmark Owner. To induce the City to execute this Agreement and perform its obligations hereunder, Landmark Owner hereby represents and warrants to the City that as of the Effective Date the following shall be true and correct in all respects:

(a) Landmark Owner is a limited liability company duly organized under the laws of the State of Illinois and validly existing and in good standing under the laws of the State of Illinois with full power and authority to perform the Project, and that the person signing this Agreement on behalf of Landmark Owner has the authority to do so.

(b) All certifications and statements contained in the Economic Disclosure Statements last submitted to the City by Landmark Owner (and any legal entity holding an interest in Landmark Owner) are true, accurate, and complete.

(c) Landmark Owner's execution, delivery and performance of this Agreement and all instruments and agreements contemplated hereby will not, upon the giving of notice or lapse of time, or both, result in a breach or violation of, or constitute a default under Landmark Owner's articles of incorporation or by-laws or any agreement to which Landmark Owner, or any Affiliate (as defined in Section 17), is a party or by which Landmark Owner, the Landmark Building, or the Landmark Property is bound.

(d) To the best of Landmark Owner's knowledge, no action, litigation, investigation or proceeding of any kind is pending or threatened against Landmark Owner, or any Affiliate, and Landmark Owner knows of no facts which could give rise to any such action, litigation, investigation or proceeding, which could: (i) affect the ability of Landmark Owner to perform its obligations hereunder; or (ii) materially affect the operation or financial condition of Landmark Owner.

(e) To the best of Landmark Owner's knowledge, the Project will not violate: (i) any laws, including, without limitation, any zoning and building codes and environmental regulations; or (ii) any building permit, restriction of record or other agreement affecting the Landmark Building or the Landmark Property.

14.3 Survival of Representations and Warranties. Each of the parties agrees that all of its representations and warranties set forth in this Section 14 or elsewhere in this Agreement are

true as of the Effective Date and will be true in all material respects at all times thereafter, except with respect to matters which have been disclosed in writing and approved by the other party.

SECTION 15. NOTICES.

Any notice, demand or communication required or permitted to be given hereunder shall be given in writing by electronic mail and at the addresses set forth below by any of the following means: (a) personal service; (b) [intentionally omitted]; (c) overnight courier; or (d) registered or certified first class mail, postage prepaid, return receipt requested:

If to the City: City of Chicago
Department of Planning and Development
Historic Preservation Division
Bureau of Planning, Historic Preservation & Sustainability
121 North LaSalle Street, Room 905
Chicago, Illinois 60602
Attn: Dijana Cuvalo, Architect IV
Email: _____

With a copy to: City of Chicago
Department of Law
121 North LaSalle Street, Room 600
Chicago, Illinois 60602
Attn: Deputy Corporation Counsel,
Real Estate & Land Use Division
Email: _____

If to the CCL: Commission on Chicago Landmarks
c/o City of Chicago
Department of Planning and Development
Historic Preservation Division
Bureau of Planning, Historic Preservation & Sustainability
121 North LaSalle Street, Room 905
Chicago, Illinois 60602
Attn: Dijana Cuvalo, Architect IV
Email: _____

If to Landmark Owner: ECG Madison, LLC
167 North Green Street, 4th Floor
Chicago, Illinois 60607
Attn: Jonathan Gordon
Email: jonathan@nbhdhotels.com

With a copy to: Taft Stettinius & Hollister LLP
111 East Wacker Drive, Ste. 2600
Chicago, Illinois 60601
Attn: Liz Butler, Esq.

Email: LButler@taftlaw.com

and

_____ [construction manager]

Any notice, demand or communication given pursuant to clause (a) hereof shall be deemed received upon such personal service. Any notice, demand or communication given pursuant to clause (c) shall be deemed received on the business day immediately following deposit with the overnight courier. Any notice, demand or communication sent pursuant to clause (d) shall be deemed received three (3) business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given. The refusal to accept delivery by any party or the inability to deliver any communication because of a changed address of which no notice has been given in accordance with this Section 15 shall constitute delivery.

SECTION 16. BUSINESS RELATIONSHIPS.

Landmark Owner acknowledges (a) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (b) that it has read such provision and understands that pursuant to 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 described 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) notwithstanding anything to the contrary contained in this Agreement, 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. Landmark Owner represents and warrants that no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

SECTION 17. PATRIOT ACT CERTIFICATION.

Landmark Owner represents and warrants that neither Landmark Owner nor any Affiliate (as defined below) of Landmark Owner 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 laws: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. As used in this Section 17, an "Affiliate" shall be deemed to be a person or entity related to Landmark Owner that, directly or indirectly, through one or more

intermediaries, controls, is controlled by or is under common control with Landmark Owner, 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.

SECTION 18. PROHIBITION ON CERTAIN CONTRIBUTIONS - MAYORAL EXECUTIVE ORDER NO. 2011-4.

18.1 Landmark Owner agrees that any person or entity who directly or indirectly has an ownership or beneficial interest in Landmark Owner of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners or Landmark Owner's contractors (i.e., any person or entity in direct contractual privity with Landmark Owner regarding the subject matter of this Agreement) ("Contractors"), any person or entity who directly or indirectly has an ownership or beneficial interest in any Contractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (Landmark Owner and all the other preceding classes of persons and entities are together the "Identified Parties"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to her political fundraising committee (a) after execution of this Agreement by Landmark Owner, (b) while this Agreement or any Other Contract (as hereinafter defined) is executory, (c) during the Term of this Agreement or any Other Contract, or (d) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated. This provision shall not apply to contributions made prior to May 16, 2011, the effective date of Executive Order 2011-4.

18.2 Landmark Owner represents and warrants that from the later of (a) May 16, 2011, or (b) the date the City approached Landmark Owner, or the date Landmark Owner approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to the Mayor's political fundraising committee.

18.3 Landmark Owner agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to her political fundraising committee.

18.4 Landmark Owner agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

18.5 Notwithstanding anything to the contrary contained herein, Landmark Owner agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this Section 18 or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted, unless the City, in its sole discretion, elects to grant such an opportunity to cure. Such breach and default entitles the City to all remedies (including, without limitation, termination for default) under this Agreement, and under any Other Contract, at law

and in equity. This provision amends any Other Contract (defined below) and supersedes any inconsistent provision contained therein.

18.6 If Landmark Owner intentionally violates this provision or Mayoral Executive Order No. 2011-4 prior to the Effective Date, the City may elect to decline to close the transaction contemplated by this Agreement.

18.7 For purposes of this provision:

(a) “Bundle” means to collect contributions from more than one source, which contributions are then delivered by one person to the Mayor or to her political fundraising committee.

(b) “Other Contract” means any other agreement with the City to which Landmark Owner is a party that is (i) formed under the authority of Chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the City Council.

(c) “Contribution” means a “political contribution” as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

(d) Individuals are “domestic partners” if they satisfy the following criteria:

(i) they are each other's sole domestic partner, responsible for each other's common welfare; and

(ii) neither party is married; and

(iii) the partners are not related by blood closer than would bar marriage in the State of Illinois; and

(iv) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and

(v) two of the following four conditions exist for the partners:

(1) The partners have been residing together for at least 12 months.

(2) The partners have common or joint ownership of a residence.

(3) The partners have at least two of the following arrangements:

(A) joint ownership of a motor vehicle;

(B) joint credit account;

(C) a joint checking account;

(D) a lease for a residence identifying both domestic partners as tenants.

(4) Each partner identifies the other partner as a primary beneficiary in a will.

(e) “Political fundraising committee” means a “political fundraising committee” as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

SECTION 19. MISCELLANEOUS.

The following general provisions govern this Agreement:

19.1 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute a single, integrated instrument.

19.2 Cumulative Remedies. The remedies of any party hereunder are cumulative and the exercise of any one or more of such remedies shall not be construed as a waiver of any other remedy herein conferred upon such party or hereafter existing at law or in equity, unless specifically so provided herein.

19.3 Date for Performance. If the final date of any time period set forth herein falls on a Saturday, Sunday or legal holiday under the laws of Illinois or the United States of America, then such time period shall be automatically extended to the next business day.

19.4 Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior agreements, negotiations and discussions. This Agreement may not be modified or amended in any manner without the prior written consent of the parties hereto. No term of this Agreement may be waived or discharged orally or by any course of dealing, but only by an instrument in writing signed by the party benefitted by such term.

19.5 Exhibits. All exhibits referred to herein and attached hereto shall be deemed part of this Agreement.

19.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without regard to its conflict of laws provisions.

19.7 Headings. The headings of the various sections and subsections of this Agreement have been inserted for convenience of reference only and shall not in any manner be construed as modifying, amending or affecting in any way the express terms and provisions hereof.

19.8 No Waiver. No waiver by the City with respect to any specific default by Landmark Owner shall be deemed to be a waiver of the rights of the City with respect to any other defaults of Landmark Owner, nor shall any forbearance by the City to seek a remedy for any breach or default be deemed a waiver of its rights and remedies with respect to such breach or default, nor shall the City be deemed to have waived any of its rights and remedies unless such waiver is in writing.

19.9 Severability. If any term of this Agreement or any application thereof is held invalid or unenforceable, the remainder of this Agreement shall be construed as if such invalid part were never included herein and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

19.10 Successors and Assigns. Except as otherwise provided in this Agreement, the terms and conditions of this Agreement shall apply to and bind the successors and assigns of the parties.

SECTION 20. COMPLIANCE WITH “WASTE” PROVISIONS.

Any duly authorized representative of the City shall have access to the Landmark Property at all reasonable times for the purpose of determining whether Landmark Owner is constructing the Project in accordance with the terms of this Agreement and all applicable federal, state and local statutes, laws, ordinances, codes, rules, regulations, orders and judgments, including, without limitation, Sections 7-28 and 11-4 of the Municipal Code of Chicago relating to waste disposal (collectively, the “Waste Sections”). Landmark Owner’s violation of the Waste Sections (including, but not limited to, Sections 7-28-390 Dumping on public way; 7-28-440 Dumping on real estate without permit; 11-4-1410 Disposal in waters prohibited; 11-4-1420 Ballast tank, bilge tank or other discharge; 11-4-1450 Gas manufacturing residue; 11-4-1500 Treatment and disposal of solid or liquid waste; 11-4-1530 Compliance with rules and regulations required; 11-4-1550 Operational requirements; and 11-4-1560 Screening requirements), whether or not relating to the performance of this Agreement, constitutes a breach of and an event of default under this Agreement and entitles the City to all remedies under the Agreement, at law or in equity. This section does not limit Landmark Owner’s, its general contractor’s and its subcontractors’ duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later, and whether or not they appear in this Agreement.

SECTION 21. INSPECTOR GENERAL.

It is the duty of every officer, employee, department, agency, contractor, subcontractor, developer and licensee of the City, and every applicant for certification of eligibility for a City contract or program, to cooperate with the City’s Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code of Chicago. Landmark Owner understands and will abide by all provisions of Chapter 2-56 of the Municipal Code of Chicago.

SECTION 22. 2014 CITY HIRING PLAN PROHIBITIONS.

22.1 The City is subject to the June 16, 2014 “City of Chicago Hiring Plan” (the “2014 City Hiring Plan”) entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

22.2 Landmark Owner is aware that City policy prohibits City employees from directing any individual to apply for a position with Landmark Owner, either as an employee or as a subcontractor, and from directing Landmark Owner to hire an individual as an employee or as a subcontractor. Accordingly, Landmark Owner must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by

Landmark Owner under this Agreement are employees or subcontractors of Landmark Owner, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Landmark Owner.

22.3 Landmark Owner will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

22.4 In the event of any communication to Landmark Owner by a City employee or City official in violation of Section 23.2 above, or advocating a violation of Section 23.3 above, Landmark Owner will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General ("OIG Hiring Oversight"), and also to the Commissioner of the Department. Landmark Owner will also cooperate with any inquiries by OIG Hiring Oversight.

[Signature Page Follows]

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

CITY OF CHICAGO,
an Illinois municipal corporation

By: _____
Ciere Boatright
Commissioner of the Department of
Planning and Development

COMMISSION ON CHICAGO LANDMARKS

By: _____
Ciere Boatright
Commissioner

ECG Madison, LLC,
an Illinois limited liability company

By: _____

Name: _____

Its: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Ciere Boatright, the Commissioner of the Department of Planning and Development of the City of Chicago, an Illinois municipal corporation, 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, being first duly sworn by me, acknowledged that, as said Commissioner, she signed and delivered the foregoing instrument pursuant to authority given by the City of Chicago as her free and voluntary act and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my notarial seal this ____ day of _____, 20__.

NOTARY PUBLIC

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Ciere Boatright, a commissioner of the Commission on Chicago Landmarks, 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, being first duly sworn by me, acknowledged that, as said commissioner, she signed and delivered the foregoing instrument pursuant to authority given by the City of Chicago as her free and voluntary act and as the free and voluntary act and deed of said commission, for the uses and purposes therein set forth.

GIVEN under my notarial seal this ____ day of _____, 20__.

NOTARY PUBLIC

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, the _____ of ECG MADISON, LLC, an Illinois limited liability company, 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, being first duly sworn by me, acknowledged that s/he signed and delivered the foregoing instrument pursuant to authority given by said company, as her/his free and voluntary act and as the free and voluntary act and deed of said company, for the uses and purposes therein set forth.

GIVEN under my notarial seal this ____ day of _____, 20__.

NOTARY PUBLIC

EXHIBIT A

LEGAL DESCRIPTION OF LANDMARK PROPERTY

[To come]

EXHIBIT B
PROJECT RESOLUTION (INCLUDING PROJECT SCOPE OF WORK, PROJECT
BUDGET AND CONDITIONS OF APPROVAL)

[Attached]

EXHIBIT C

PROJECT CONSTRUCTION SCHEDULE

[To come]

EXHIBIT D

INSURANCE REQUIREMENTS

Department of Planning and Development
Historic Landmark Agreement

A. INSURANCE REQUIRED OF LANDMARK OWNER ("Owner")

Owner must provide and maintain at Owner's own expense, during the Term of this Agreement and during the time period following expiration if Owner is required to return and perform any work, services or operations, the insurance coverages and requirements specified below, insuring all work, services, or operations related to the Agreement.

1) Workers Compensation and Employers Liability (Primary and Umbrella)

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a work, services or operations under this Agreement and Employers Liability coverage with limits of not less than \$1,000,000 each accident, \$1,000,000 disease-policy limit, and \$1,000,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater.

Owner may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include but not be limited to the following: All premises and operations, products/completed operations, separation of insureds, defense, professional services exclusion deleted, and contractual liability (not to include Endorsement CG 21 39 or equivalent).

The City and other entities as required by City must be provided additional insured status with respect to liability arising out of Owner's work, services or operations performed on behalf of the City. The City's additional insured status must apply to liability and defense of suits arising out of Owner's acts or omissions, whether such liability is attributable to the Owner or to the City on an additional insured endorsement form acceptable to the City. The full policy limits and scope of protection also will apply to the City as an additional insured, even if they exceed the City's minimum limits required herein. Owner's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Owner may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work, services, or operations to be performed, Automobile Liability Insurance must be maintained by the Owner with limits of not less than \$1,000,000 per occurrence or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property

damage. The City is to be added as an additional insured on a primary, non-contributory basis.

Owner may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

4) Excess/Umbrella

If the landmark is unoccupied during the work under the Agreement, Excess/Umbrella Liability Insurance must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. If the landmark is occupied during the work under the Agreement, Excess/Umbrella Liability Insurance must be maintained with limits of not less than \$4,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Owner may use a combination of primary and excess/umbrella policies to satisfy the limits of liability required in sections A.1, A.2, A.3 and A.4 herein.

5) All Risk Property

When Owner performs a repair or replacement of the landmark, the Owner must provide All Risk Property/Installation Insurance, at replacement cost, for loss or damage to equipment, machinery, materials or supplies that are part of the Agreement. Coverages must include in-transit, off-site, faulty workmanship or materials, testing and mechanical-electrical breakdown. The City is to be named as additional insured and loss payee as it's interest may appear.

B. INSURANCE REQUIRED OF PRIME CONTRACTOR ("Contractor") DURING CONSTRUCTION

Contractor must provide and maintain at Contractor's own expense, during the Term of this Agreement and during the time period following expiration if Contractor is required to return and perform any work, services or operations, the insurance coverages and requirements specified below, insuring all work, services, or operations related to the Agreement.

1) Workers Compensation and Employers Liability (Primary and Umbrella)

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a work, services or operations under this Agreement and Employers Liability coverage with limits of not less than \$1,000,000 each accident, \$1,000,000 disease-policy limit, and \$1,000,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater. Coverage must include but not be limited to, the following: other states endorsement, alternate employer and voluntary compensation endorsement, when applicable.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include but not be limited to, the following: All premises and operations, products/completed operations for a minimum of two (2) years following project completion, explosion, collapse, underground, separation of insureds, mobile equipment, defense, contractual liability (not to include endorsement CG 21 39 or equivalent), no exclusion for damage to work performed by Subcontractors, any limitation of coverage for designated premises or project is not permitted (not to include endorsement CG 21 44 or equivalent) and any endorsement modifying or deleting the exception to the Employer's Liability exclusion is not permitted. If a general aggregate limit applies, the general aggregate must apply per project/location and once per policy period if applicable, or Contractor may obtain separate insurance to provide the required limits which will not be subject to depletion because of claims arising out of any other work or activity of Contractor. If a general aggregate applies to products/completed operations, the general aggregate limits must apply per project and once per policy period.

The City must be provided additional insured status with respect to liability arising out of Contractor's work, services or operations and completed operations performed on behalf of the City. Such additional insured coverage must be provided on ISO **form CG 2010 10 01 and CG 2037 10 01** or on an endorsement form at least as broad for ongoing operations and completed operations. The City's additional insured status must apply to liability and defense of suits arising out of Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the City. The full policy limits and scope of protection also will apply to the City as an additional insured, even if they exceed the City's minimum limits required herein. Contractor's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

3) Automobile Liability (Primary and Umbrella)

Contractor must maintain Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property damage. Coverage must include but not be limited to, the following: ownership, maintenance, or use of any auto whether owned, leased, non-owned or hired used in the performance of the work or devices, both on and off the Project site including loading and unloading. If applicable, coverage extension must include an MCS-90 endorsement where required by the Motor Carrier Act of 1980. The City is to be named as an additional insured on a primary, non-contributory basis.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

4) Excess/Umbrella

If the landmark is unoccupied during the work under the Agreement, Excess/Umbrella

Liability Insurance must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. If the landmark is occupied during the work under the Agreement, Excess/Umbrella Liability Insurance must be maintained with limits of not less than \$4,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. If a general aggregate limit applies the general aggregate must apply per project/location. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Contractor may use a combination of primary and excess/umbrella policies to satisfy the limits of liability required in sections A.1, A.2, A.3 and A.4 herein.

5) Builders Risk

When Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor must provide All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent project. Coverages must include, but are not limited to, the following: material stored off-site and in-transit, equipment breakdown, earth movement, flood, water including overflow, leakage, sewer backup or seepage, utility services, damage to adjoining and existing property, scaffolding, false work, fences, and temporary structures, collapse, debris removal, faulty workmanship or materials, testing, mechanical-electrical breakdown, changes in temperature, extra expense, ordinance or law for increased cost of construction. The City is to be named as an additional insured and loss payee as it's interest may appear.

The Contractor is responsible for all loss or damage to personal property (including materials, equipment, tools and supplies) owned, rented or used by Contractor.

6) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work, services, or operations in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$2,000,000. Coverage must include, but not be limited to, technology errors and omissions and pollution liability if environmental site assessments are conducted. 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.

7) Railroad Protective Liability

When any work, services, or operations is to be done adjacent to or on railroad or transit property, Contractor must provide, with respect to the operations that Contractor or subcontractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than the requirement of the operating railroad 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.

If applicable, a certified copy of the Railroad Protective policy is to be submitted to the

Chicago Transit Authority (CTA), ATTN: Manager of Benefits Compliance, 567 West Lake Street, 3rd Floor, Chicago, IL 60661. METRA, ATTN: Risk Management, 547 West Jackson Blvd, Chicago, IL 60661. An Insurance binder will be accepted until such time the policy is submitted.

8) Contractors Pollution Liability

When any work, services, or operations performed involves a potential pollution risk that may arise from the operations of Contractor's scope of services, Contractors Pollution Liability must be provided or caused to be provided, covering bodily injury, property damage and other losses caused by pollution conditions with limits of not less than \$5,000,000 per occurrence. Coverage must include but not be limited to completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal and if applicable, include transportation and non-owned disposal coverage. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City is to be named as an additional insured.

9) Environmental and Asbestos Abatement Liability

If the Contractor's scope of work involves the removal of asbestos, the removal/replacement of underground tanks, or the removal of toxic chemicals and substances, the Contractor will be required to provide the following minimum limits of liability, for such exposures subject to requirements and approval of the City: \$10,000,000 per Claim/Aggregate.

B. ADDITIONAL REQUIREMENTS

Evidence of Insurance. Owner and Contractor must furnish the City, Department of Planning and Development, 121 N. LaSalle Street, 10th Floor, Chicago, IL 60602, original certificates of insurance and additional insured endorsement, or other evidence of insurance, to be in force on the date of this Agreement, and renewal certificates of Insurance and endorsement, or such similar evidence, if the coverages have an expiration or renewal date occurring during the Term of this Agreement. Owner and Contractor must submit evidence of insurance prior to execution of 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 requirements of Agreement. The failure of the City to obtain, nor the City's receipt of, or failure to object to a non-complying insurance certificate, endorsement or other insurance evidence from Owner and Contractor, its insurance broker(s) and/or insurer(s) will not be construed as a waiver by the City of any of the required insurance provisions. Owner and Contractor must advise all insurers of the Agreement provisions regarding insurance. The City in no way warrants that the insurance required herein is sufficient to protect Owner and Contractor for liabilities which may arise from or relate to the Agreement. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time.

Failure to Maintain Insurance. Failure of the Owner and Contractor to comply with required coverage and terms and conditions outlined herein will not limit Owner and Contractor's liability or responsibility nor does it relieve Owner and Contractor of its obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to suspend this Agreement until proper evidence of insurance is provided, or the Agreement may be terminated.

Notice of Material Change, Cancellation or Non-Renewal. Owner and Contractor must provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed and ten (10) days prior written notice for non-payment of premium.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Owner and Contractor.

Waiver of Subrogation. Owner and Contractor hereby waives its rights and agrees to require their insurers to waive their rights of subrogation against the City under all required insurance herein for any loss arising from or relating to this Agreement. Owner and Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City received a waiver of subrogation endorsement for Owner and Contractor's insurer(s).

Contractors Insurance Primary. All insurance required of Owner and Contractor under this Agreement must be endorsed to state that Owner and Contractor's insurance policy is primary and not contributory with any insurance procured or maintained by the City.

No Limitation as to Contractor's Liabilities. The coverages and limits furnished by Owner and Contractor in no way limit or restricts the Owner and Contractor's liabilities and responsibilities specified within the Agreement or by law.

No Contribution by City. Any insurance or self-insurance programs maintained by the City do not contribute with insurance provided by Owner and Contractor under this Agreement.

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

Insurance and Limits Maintained. If Owner and Contractor maintains higher limits and/or broader coverage than the minimums shown herein, the City requires and must be entitled the higher limits and/or broader coverage maintained by Owner and Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage must be available to the City.

Joint Venture or Limited Liability Company. If Owner and Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a Named Insured.

Other Insurance obtained by Owner and Contractor. If Owner and Contractor desires additional coverages, the Owner and Contractor will be responsible for the acquisition and cost.

Insurance required of Subcontractors. Owner and/or Contractor must name Subcontractor(s) as a named insured(s) under Contractor's insurance or Owner and Contractor will require each Subcontractor(s) to provide and maintain Commercial General Liability, Commercial Automobile Liability, Worker's Compensation and Employers Liability Insurance and when applicable Excess/Umbrella Liability Insurance with coverage at least as broad as in outlined in Section A, Insurance Required. The limits of coverage will be determined by Owner or Contractor and may be subject to approval by the City. Owner or Contractor must determine if Subcontractor(s) must

also provide any additional coverage or other coverage outlined in Section A, Insurance Required. Owner or Contractor is responsible for ensuring that each Subcontractor has named the City as an additional insured where required and name the City as an additional insured under the Commercial General Liability on ISO form CG 2010 10 01 and CG 2037 10 01 for ongoing operation and completed operations on an endorsement form at least as broad and acceptable to the City. Owner or Contractor is also responsible for ensuring that each Subcontractor has complied with the required coverage and terms and conditions outlined in this Section B, Additional Requirements. When requested by the City, Owner or Contractor must provide to the City certificates of insurance and additional insured endorsements or other evidence of insurance. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time. Failure of the Subcontractors to comply with required coverage and terms and conditions outlined herein will not limit Contractor's liability or responsibility.

City's Right to Modify. Notwithstanding any provisions in the Agreement to the contrary, the City, Department of Finance, Risk Management Office maintains the right to modify, delete, alter or change these requirements.

EXHIBIT E

FINAL PROJECT BUDGET

[To come]

EXHIBIT F

CONDITIONAL CERTIFICATE

[To come]

EXHIBIT G

FORM OF CONSTRUCTION ESCROW AGREEMENT

[Attached]

CONSTRUCTION ESCROW AGREEMENT

Escrow No. _____ Date: _____, 20__

To: _____ ("Escrowee")

Chicago, IL 606__

Parties: (a) ECG Madison, LLC, an Illinois limited liability company ("Landmark Owner"); and

(b) CITY OF CHICAGO, an Illinois municipal corporation and home rule unit of government ("City").

1. The accompanying One Million Three Hundred Thousand and 00/100 Dollars (\$1,300,000.00) is deposited by the City with the Escrowee and shall be used solely to reimburse the Landmark Owner for the costs shown on Exhibit 4 attached hereto, otherwise known as the "Approved Project Costs", relating to the Landmark Owner's performance of the "Preservation Work," as defined in that certain Adopt a Landmark Floor Area Bonus Agreement, between Landmark Owner and the City of Chicago, dated _____, 20__ (the "AAL Agreement"), relating to the property located at 801 W. Madison Street / 2 S. Halsted Street, Chicago, Illinois, and commonly known as the (Former) Mid-City Trust and Savings Bank Building .

2. The funds shall be disbursed by Escrowee only upon the written joint order of (1) _____, in her/his capacity as the _____ of Landmark Owner, or her/his duly authorized designee, and (2) the Commissioner or any Managing Deputy Commissioner of the Department of Planning and Development. That written order must be substantially in the form of Exhibit 2 attached hereto. The joint order shall be accompanied by a written statement from _____, Landmark Owner's Third-Party (Inspecting) Architect/Engineer, in substantially the form of Exhibit 3 attached hereto, which statement shall be attached to the joint order. Draw requests can be submitted on a monthly basis (i.e., within 30 days of the Landmark Owner incurring the expense for Approved Project Costs.

3. The undersigned authorize and direct the Escrowee to disregard any and all notices, warnings or demands given or made by the undersigned (other than jointly) or by any other person. The said undersigned also hereby authorize and direct the Escrowee to accept, comply with, and obey any and all writs, orders, judgments or decrees entered or issued by any court with or without jurisdiction; and in case the said Escrowee obeys or complies with any such writ, order, judgment or decree of any court, it shall not be liable to any of the parties hereto or any other person, by reason of such compliance, notwithstanding any such writ, order, judgment or decree be entered without jurisdiction or be subsequently reversed, modified, annulled, set aside or vacated. In case the Escrowee is made a party defendant to any suit or proceedings regarding this escrow trust, the undersigned, for themselves, their heirs, personal representatives, successors, and assigns, jointly and severally, agree to pay to said Escrowee, upon written demand, all costs, attorney's fees, and expenses incurred with respect thereto. The Escrowee shall have a lien on the deposit(s) herein for any and all such costs, fees and expenses. If said costs, fees and expenses are not paid, then the Escrowee shall have the right to reimburse itself out of the said deposit(s).

4. Except as set forth in Paragraph 10 hereof, in no case shall escrow funds be surrendered except on a joint order signed by Landmark Owner and the City or their respective legal representatives or successors or as directed pursuant to Paragraph 3 above or in obedience of the process or order of court as provided in this Agreement.

5. If conflicting demands are made upon Escrowee or legal action is brought in connection with this Agreement, Escrowee may withhold all performance without liability therefore, or Escrowee may file suit for interpleader or declaratory relief. If Escrowee is required to respond to any legal summons or proceedings, or if any action of interpleader or declaratory relief is brought by Escrowee, or if conflicting demands or notice by parties to this Agreement or by others are served upon Escrowee, the parties jointly and severally agree to pay escrow fees and all costs, expenses, and attorneys' fees expended or incurred by Escrowee as a result of any of the above described events. The undersigned parties further agree to save Escrowee harmless from all losses and expenses, including reasonable attorneys' fees and court costs incurred by reason of any claim, demand, or action filed with respect to this Agreement. The undersigned jointly and severally agree to pay the fees of Escrowee and reimburse Escrowee for all expenses incurred in connection with this Agreement and direct that all sums due to Escrowee pursuant to this Agreement be deducted from the escrow funds. The undersigned hereby grant Escrowee a lien against the escrow funds to secure all sums due Escrowee. The Escrowee shall not be liable for any act which it may do or omit to do hereunder in good faith and the reasonable exercise of its own best judgment. Any act done or omitted by the Escrowee pursuant to the advice of its legal counsel shall be deemed conclusively to have been performed in good faith by the Escrowee.

6. This Agreement is intended to implement, is not intended to cancel, supersede or modify the terms of the AAL Agreement, or any agreement by and between Landmark Owner and the City. The duties and responsibilities of Escrowee are limited to this Agreement and the Escrowee shall not be subject to nor obligated to recognize any other agreement between the parties, provided, however, that these escrow instructions may be amended at any time by an instrument in writing signed by all of the undersigned.

7. Landmark Owner and the City warrant to and agree with Escrowee that, unless otherwise expressly set forth in this Agreement: (a) there is no security interest in the escrow funds or any part thereof; (b) no financing statement under the Uniform Commercial Code is on file in any jurisdiction claiming a security interest in or describing (whether specifically or generally) the escrow funds or any part thereof; and (c) Escrowee shall have no responsibility at any time to ascertain whether or not any security interest exists in the escrow funds or any part thereof or to file any financing statement under the Uniform Commercial Code with respect to the escrow funds or any part thereof.

8. The fee for establishing the escrow is \$_____, payable by Landmark Owner at the time the escrow funds are deposited. An annual fee of \$_____ will be due from Landmark Owner for each year (or part thereof) the escrow account remains open (with any part of the deposit not disbursed) after _____, 20___. Wire transfer or overnight delivery fees will be assessed at the rate of \$_____ each. All fees relating to this escrow account shall be billable to and payable solely by Landmark Owner. **Funds from the escrow account may not be used to pay any fees.**

9. ***[Intentionally omitted.]***

10. Chicago Title and Trust Company may resign as Escrowee by giving ten (10) days prior written notice by certified mail, return receipt requested, sent to Landmark Owner and the City

care of their designated representatives and at the addresses set forth below; and thereafter Escrowee shall deliver all remaining escrow funds to a successor Escrowee named by Landmark Owner and the City in a joint written and signed order. If Landmark Owner and the City do not agree on a successor Escrowee, then Escrowee shall deliver all remaining escrow funds to the City.

11. This Agreement shall terminate ten (10) days following the earlier of: (i) the date on which the Landmark Owner completes the Preservation Work in accordance with the terms of the AAL Agreement, as evidenced by the Landmark Owner's receipt of a Certificate of Completion from the he City, or (ii) _____, 20____, as such date may be extended in writing by the City. All funds, including accumulated interest on the escrow funds, remaining in the escrow account on such termination date will belong to the City and the City will have the sole right to direct the Escrowee to disburse the funds in the escrow account to the City.

12. Any notice which the parties hereto are required or desire to give hereunder to any of the undersigned shall be in writing and may be given by mailing or delivering the same to the address of the undersigned by certified mail, return receipt requested, or overnight courier:

Landmark Owner:

ECG Madison, LLC
167 North Green Street, 4th Floor

Chicago, IL 60607
Attn: Jonathan Gordon

City:

City of Chicago
Department of Planning & Development
121 North LaSalle Street, Room 1000
Chicago, Illinois 60602
Attn: Commissioner

With a copy to:

City of Chicago
Department of Law
121 North LaSalle Street, Room 600
Chicago, Illinois 60602
Attn: Real Estate and Land Use Division,
Deputy Corporation Counsel

Escrowee:

Chicago, IL 606__

Attn: _____

13. Direction Not to Invest/Right to Commingle. Except as to deposits of funds for which Escrowee has received express written direction concerning investment or other handling, the parties hereto direct the Escrowee NOT to invest any funds deposited by the parties under the terms of this escrow and waive any rights which they may have under Section 2-8 of the Corporate Fiduciary Act (205 ILCS 620/2-8) to receive interest on funds deposited hereunder. In the absence of an authorized direction to invest funds, the parties hereto agree that the Escrowee shall be under no duty to invest or reinvest any such funds at any time held by it hereunder; and, further, that Escrowee may commingle such funds with other deposits or with its own funds in the manner provided for the administration of funds under said Section 2-8 and may use any part or all of such funds for its own benefit without obligation to any party for interest or earnings derived thereby, if any. Further, even with appropriate instructions to invest Escrow Deposits, Escrowee may commingle the Escrow Deposits with other funds in a trust account in order to facilitate placing the Escrow Deposits into a segregated interest bearing account and to disburse the Escrow Deposits once they have been removed from such segregated interest bearing account as required by the terms of this Agreement. Provided, however, nothing herein shall diminish Escrowee's obligation to apply the full amount of such funds in accordance with the terms of these escrow instructions.

14. Disputes/Circumstance not contemplated. If any dispute arises with respect to the disbursement of any funds on deposit or if circumstances arise that were not contemplated or described in the original escrow agreement, and Escrowee is unsure as to its duties as a result, Escrowee may continue to hold said funds until either in receipt of a joint order from the parties or a court order directing payment. In such instance, Escrowee may elect to commence an action in interpleader and in conjunction therewith remit the Escrow Deposit to a court of competent jurisdiction pending resolution of such dispute, and Landmark Owner hereby indemnifies and holds harmless Escrowee for any action taken by it in good faith in the execution of its duties hereunder. The parties further agree that the cost of any such action shall be deducted from the Escrow Deposit prior to disbursement to the parties.

15. Disclaimer Re: Validity of Documentation. In its capacity as Escrowee, Escrowee shall not be responsible for the genuineness or validity of any security, instrument, document or item deposited with it and shall have no responsibility other than to faithfully follow the instructions contained herein, and shall not be responsible for the validity or enforceability of any security interest of any party and it is fully protected in acting in accordance with any written instrument given to it hereunder by any of the parties hereto and reasonably believed by Escrowee to have been signed by the proper person. Escrowee may assume that any person purporting to give any notice hereunder has been duly authorized to do so.

[Signature page follows.]

ECG MADISON, LLC

CITY OF CHICAGO

By: _____
Name: _____
Its: _____

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

_____ [Escrowee]

By: _____

Name: _____

Its: _____

(sub) EXHIBIT 1 to Joint Order Escrow Agreement

Disbursement Direction

I, _____, the _____ of _____, hereby direct _____, Escrowee, under its Escrow Number _____ to pay to ECG Madison, LLC the sum of \$ _____ from the cash Deposit held in said Escrow.

Dated: _____ ECG Madison, LLC

By: _____
Name: _____
Its: _____

I, _____, the _____ [Commissioner / Managing Deputy Commissioner] of the City of Chicago Department of Planning and Development, hereby authorize the disbursement requested above approving its payment as so directed.

Dated: _____ City of Chicago, acting by and through its Department of Planning and Development

By: _____
Name: _____
Its: _____

(sub) EXHIBIT 2 to Joint Order Escrow Agreement

The undersigned has served as the Third-Party (Inspecting) Architect/Engineer to ECG Madison, LLC (the "Landmark Owner") and hereby certifies that the accompanying joint written order seeks funds to reimburse the Landmark Owner for "Approved Project Costs" incurred by Landmark Owner for the "Preservation Work," as defined in, and determined and governed by, the Adopt a Landmark Floor Area Bonus Agreement between Landmark Owner and the City of Chicago, dated _____, 20___. The undersigned has obtained and has included with this certification **lien waivers** for all the work for which reimbursement is sought, **and an AIA Application and Certificate for payment** (each, a "Draw") completed by or on behalf of Landmark Owner (or other statement in a form reasonably satisfactory to the City) setting forth, among other things, the amount of the funds (such funds being referred to herein as an "Advance") requested in each instance and also including:

- (i) the hard and soft cost statements;
- (ii) a cost certification from the Contractor in a form reasonably satisfactory to the Third-Party Architect/Engineer regarding the work or materials covered by the Draw;
- (iii) full or conditional, as applicable, lien waivers from all contractors, subcontractors or suppliers who supplied materials or performed work covered by the Draw in form and substance reasonably satisfactory to the Third-Party Architect/Engineer; and
- (iv) proof of payment of soft costs covered by the previous Draw, in a form reasonably satisfactory to the Third-Party Architect/Engineer.

Dated: _____

[Third-Party (Inspecting) Architect/Engineer]

By: _____
Name: _____
Title: _____

(sub) EXHIBIT 3 to Joint Order Escrow Agreement

APPROVED PROJECT COSTS

The funds in the Joint Order Escrow Account will be used solely to reimburse the Landmark Owner for the following categories of environmental costs incurred by the Landmark Owner in the performance of City-approved Preservation Work:

Subject to the review and approval of the Commission on Chicago Landmarks (and as depicted on drawings prepared by Pappageorge Haymes (dated 6-19-2023), attached hereto, and incorporated as Exhibit B), the Project Scope of Work and Budget under the Adopt-A-Landmark Fund for the Landmark Building shall consist of:

EXTERIOR AND INTERIOR WORK

Exterior and interior rehabilitation of an existing former bank building into hotel and commercial space uses including masonry repairs, historic window restoration, exterior lighting, skylight restoration, and interior alterations.

Exterior:

Work Shall Include:

- Masonry repairs as necessary to address all condition issues on all elevations.
- Masonry cleaning on all elevations.
- Replacement of select un-repairable non-historic windows as required to match existing replacement windows on upper floors. Repair of remaining existing non-historic windows to make fully operational.
- Repair and refinishing of existing historic windows at ground and 2nd floors including installation of an additional layer of glazing to the inside face of the windows.
- Repair and re-installation of historic doors at all building entries.
- Modification of select ground floor windows to accommodate new tenant doors.
- Installation of exterior architectural illumination.
- Rebuilding of damaged areas of roof parapet.
- Roof work includes removal of old layers of roofing, installation of new layer of roofing and insulation over existing deck and perimeter flashing
- Installation of vegetative 'green' roof.
- Installation of mechanical equipment serving hotel suites on the roof.

Interior:

Work shall include:

- Installation of new mechanical, electrical, plumbing and fire protection systems to replace existing obsolete systems.
- Replacement and modernization of two existing elevators in existing locations and construction of (2) new elevators from bank hall to basement.
- Installation of new insulation and gypsum board at interior face of exterior walls on upper floors.
- Modifications to stairs, stairwells, and egress paths to endure conformance with Chicago Building Code.
- Installation of new trash chute at existing chimney.
- Restoration of historic features at entry stairwell and historic safety deposit box waiting area at the northeast corner of the basement.
- Capping of existing exposed soil floor in basement boiler room.
- Full buildout of basement hotel back-of-house spaces, including laundry room, package storage, maintenance office, etc.
- Full buildout of basement circulation for hotel and future tenant including corridors and ramps to accommodate level changes in the basement.
- Removal of non-historic bank hall finishes on the first floor.
- New glass partitions between the historic bank hall and hotel lobby.
- Replacement of non-historic lighting and finishes with new historically sensitive fixtures throughout.
- Buildout of vestibule and hotel lobby within historic bank hall with historically sensitive finishes and fixtures.
- Repair and renovation of bank hall skylights.
- Full build out of twelve new hotel suites on the 2nd floor mezzanine, including repairs and renovation of historic office/conference room. Full build out of sixteen new hotel suites per floor on floors 3-6. Hotel suites include full bathroom with shower, toilet and lavatory, small kitchenette, and living/sleeping rooms
- Installation of fire separations at mezzanine openings to ensure conformance with Chicago codes.
- Demolition and replacement of east wall along north-south corridor on upper floors. Historic doors to be salvaged and reinstalled in new wall.
- Protection and renovation of existing historic north and south walls of east-west, and west wall of north-south corridor on upper floors.
- Protection and renovation of existing historic floor tile where present in the common corridor on upper floors. In areas where historic tile is not present, new tile to match historic color and patterning to be installed.
- Restoration and modernization of historic doors at new hotel suite entries to meet code requirements on upper floors. Where historic doors do not align with entries, doors to remain in place and be sealed shut.

Such costs of Preservation Work must be based on the Landmark Owner's actual costs, verified by actual receipts, with no markup by the Landmark Owner for these costs.

EXHIBIT H
M/WBE BUDGET

[To Come]

CITY OF CHICAGO

COMMISSION ON CHICAGO LANDMARKS

March 7, 2024

**RESOLUTION FOR ADOPT-A-LANDMARK FUNDS TO BENEFIT
ECG MADISON, LLC
801 W. Madison Street/2 S. Halsted Street**

To the Mayor and Members of the City Council of the City of Chicago:

WHEREAS, Section 17-4-1000 of the Chicago Zoning Ordinance authorizes the City to award floor area bonuses to projects located in “D” districts in return for a financial contribution to the City (“Bonus Payment”); and

WHEREAS, the Bonus Payment is deposited into three funds: (i) the Neighborhood Opportunity Fund, (ii) the Citywide Adopt-a-Landmark Fund (the “AAL Fund”), and (iii) the Local Impact Fund; and

WHEREAS, the AAL Fund receives 10% of each Bonus Payment; and

WHEREAS, the purpose of the AAL Fund is to finance landmark restoration projects; and

WHEREAS, on May 6, 2021, the Commission on Chicago Landmarks (the “Commission”) approved the funding priority and evaluation criteria for the AAL Fund; and

WHEREAS, on March 17, 2023, the Department of Planning and Development (the “Department”) announced that it was accepting applications for grants to support landmark restoration projects under the AAL Fund; and

WHEREAS, the deadline for submissions was June 21, 2023; and

WHEREAS, the Department received 31 applications, including an application submitted by ECG Madison, LLC (the “Applicant”) for significant exterior and interior restoration work to the (Former) Mid-City Trust and Savings Bank Building at 801 W. Madison Street/2 S. Halsted Street (the “Landmark Building” and its rehabilitation, the “Landmark Project”), pursuant to Section 17-4-1006 of the Municipal Code, and its requirements governing the AAL Fund; and

WHEREAS, the Landmark Building was designated as a Chicago Landmark by the City Council of the City of Chicago (the “City Council”) on April 24, 2012 pursuant to the Chicago Landmarks Ordinance; and

WHEREAS, the Department evaluated the applications based on the funding priority, evaluation criteria and the other criteria set forth in Section 17-4-1006 of the Municipal Code, and has determined that the Applicant’s application satisfies the criteria; and

WHEREAS, the Department wishes to award the Applicant a grant in the amount of \$1,300,000 from the AAL Fund to undertake the Landmark Project; and

WHEREAS, pursuant to Section 17-4-1006-C-2 of the Municipal Code, the Commission must approve the scope of work and budget for the Landmark Project; *now, therefore*,

THE COMMISSION ON CHICAGO LANDMARKS HEREBY:

1. Incorporates the above recitals as the findings of the Commission; and
2. Approves the Project Scope of Work and Budget, attached hereto and incorporated herein as Exhibit A (the "Project Scope of Work and Budget"); and
3. Finds that the Landmark Project is eligible to receive a distribution from the AAL Fund; and
4. Finds that the Landmark Project meets the standard set forth in Section 17-4-1006-C-1 in that it is consistent with the landmark guidelines established under the Chicago Landmarks Ordinance (the "Landmark Guidelines"); and
5. Finds that the Landmark Project meets the standard set forth in Section 17-4-1006-C-3 in that it involves substantial interior or exterior renovation work that is visible from the public street or within a portion of the interior that is open to the public, and exceeds normal maintenance work; and
6. Finds that the Landmark Project meets the standard set forth in Section 17-4-1006-C-4 in that it has not been completed, addresses exterior envelope issues, and satisfies the funding priority and evaluation criteria; and
7. Authorizes the Commissioner of the Department, acting on behalf of the Commission, and subject to the approval of the City Council, to: (a) enter into an agreement (the "Agreement") with the Applicant or its successors, in a form approved by the Corporation Counsel, regarding the manner in which the AAL Fund for the Landmark Project will be used; (b) approve, as necessary, any minor modifications to the Project Scope of Work and Budget otherwise consistent with the purposes and requirements of the Landmark Guidelines; and (c) require the Applicant to comply with the City's Minority-Owned Business Enterprise/Women-Owned Business Enterprise participation requirements and local hiring policies, and to pay prevailing wages; and
8. Directs that, upon completion of the Landmark Project, the Applicant shall notify the Commission staff and request a certificate of completion; and
9. Directs that the Applicant must obtain a certificate of completion from the Commissioner of the Department prior to the final distribution from the AAL Fund.

The above resolution was adopted unanimously (7-0).

Gabriel Ignacio Dziekiewicz, Vice Chair
Commission on Chicago Landmarks

Dated: March 7, 2024.

EXHIBIT A

**CITY WIDE ADOPT-A-LANDMARK FUND
SCOPE OF WORK AND BUDGET FOR
801 W. Madison Street/2 S. Halsted Street**

Subject to the review and approval of the Commission on Chicago Landmarks (and as depicted on drawings prepared by Pappageorge Haymes (dated 6-19-2023), attached hereto, and incorporated as Exhibit B), the Project Scope of Work and Budget under the Adopt-A-Landmark Fund for the Landmark Building shall consist of:

EXTERIOR AND INTERIOR WORK

Exterior and interior rehabilitation of an existing former bank building into hotel and commercial space uses including masonry repairs, historic window restoration, exterior lighting, skylight restoration, and interior alterations.

Exterior and Interior Work - Total **\$27,586,257**

Exterior:

Work Shall Include:

- Masonry repairs as necessary to address all condition issues on all elevations.
- Masonry cleaning on all elevations.
- Replacement of select un-repairable non-historic windows as required to match existing replacement windows on upper floors. Repair of remaining existing non-historic windows to make fully operational.
- Repair and refinishing of existing historic windows at ground and 2nd floors including installation of an additional layer of glazing to the inside face of the windows.
- Repair and re-installation of historic doors at all building entries.
- Modification of select ground floor windows to accommodate new tenant doors.
- Installation of exterior architectural illumination.
- Rebuilding of damaged areas of roof parapet:
- Roof work includes removal of old layers of roofing, installation of new layer of roofing and insulation over existing deck and perimeter flashing.
- Installation of vegetative 'green' roof.
- Installation of mechanical equipment serving hotel suites on the roof.

Interior:

Workshall include:

- Installation of new mechanical, electrical, plumbing and fire protection systems to replace existing obsolete systems.
- Replacement and modernization of two existing elevators in existing locations and construction of (2) new elevators from bank hall to basement.
- Installation of new insulation and gypsum board at interior face of exterior walls on upper floors.
- Modifications to stairs, stairwells, and egress paths to endure conformance with Chicago Building Code.
- Installation of new trash chute at existing chimney.
- Restoration of historic features at entry stairwell and historic safety deposit box waiting area at the northeast corner of the basement.
- Capping of existing exposed soil floor in basement boiler room.
- Full buildout of basement hotel back-of-house spaces, including laundry room, package storage, maintenance office, etc.
- Full buildout of basement circulation for hotel and future tenant including corridors and ramps to accommodate level changes in the basement.
- Removal of non-historic bank hall finishes on the first floor.
- New glass partitions between the historic bank hall and hotel lobby.
- Replacement of non-historic lighting and finishes with new historically sensitive fixtures throughout.
- Buildout of vestibule and hotel lobby within historic bank hall with historically sensitive finishes and fixtures.
- Repair and renovation of bank hall skylights.
- Full build out of twelve new hotel suites on the 2nd floor mezzanine, including repairs and renovation of historic office/conference room. Full build out of sixteen new hotel suites per floor on floors 3-6. Hotel suites include full bathroom with shower, toilet and lavatory, small kitchenette, and living/sleeping rooms.
- Installation of fire separations at mezzanine openings to ensure conformance with Chicago codes.
- Demolition and replacement of east wall along north-south corridor on upper floors. Historic doors to be salvaged and reinstalled in new wall.
- Protection and renovation of existing historic north and south walls of east-west, and west wall of north-south corridor on upper floors.
- Protection and renovation of existing historic floor tile where present in the common corridor on upper floors. In areas where historic tile is not present, new tile to match historic color and patterning to be installed.
- Restoration and modernization of historic doors at new hotel suite entries to meet code requirements on upper floors. Where historic doors do not align with entries, doors to remain in place and be sealed shut.

Soft Costs - Total **\$10,083,719**

Architect/Engineering Fees	\$900,000
3 rd Party Architect Fees - Estimated	\$5,000
Escrow Fees -- Estimated	\$2,000

Development Fee/Acquisition Costs - Total **\$15,434,379**

Development Fee	\$808,000
Acquisition Costs	\$14,626,379

TOTAL PROJECT COSTS	\$53.1M
ADOPT-A-LANDMARK GRANT	\$1.3M

Conditions of Approval:

The Landmark Project will not have an adverse effect on the significant historical and architectural features of the Landmark Building and is approved, subject to the following conditions:

1. All work must be submitted to the Historic Preservation Division of the Department for prior review and approval as part of one or more building permit applications. The Historic Preservation Division may require, as part of its review, material samples, paint colors and finishes, shop drawings, specifications, mock-ups, test patches, and/or control samples as applicable. Where new mortar is required, the new mortar is to match the historic mortar in color, texture, strength/type, and profile. A masonry mockup showing proposed mortar is to be viewed and approved by Historic Preservation staff prior to reinstallation of terra cotta. All work shall be done in accordance with the Commission's *Guidelines for Alterations to Historic Buildings and New Construction* and *The Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings*.
2. Undocumented Conditions: The Applicant shall notify Commission Staff of undocumented detrimental conditions found during work.
3. The Applicant and the escrow agent shall enter into an escrow agreement in a form acceptable to the Corporation Counsel to assure that the Landmark Project is completed and paid for in a timely manner.

4. Upon completion of the Landmark Project, the Applicant shall notify Commission staff; provide the necessary certification request documentation and provide access to the Landmark Building, as necessary, so that staff can conduct a final inspection of the work; and provide an informational report to the Commission. Final payment from AAL Funds is subject to certification by the Commissioner of the Department that the Project was completed in accordance with the requirements of the AAL Funds, the Project Scope of Work and Budget, the Agreement, and the Landmark Guidelines.