

EXHIBIT A

BUILDING MAINTENANCE AGREEMENT

(ATTACHED)

**RIGHT OF ENTRY AND
BUILDING MAINTENANCE AND PROTECTION AGREEMENT**

This **RIGHT OF ENTRY AND BUILDING MAINTENANCE AND PROTECTION AGREEMENT** (“Agreement”) is made as of February 10, 2023 (the “Effective Date”), by and between the **CITY OF CHICAGO**, an Illinois municipal corporation and home rule unit of government (the “City”), having its principal offices located at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602, and **548 CAPITAL LLC**, an Illinois limited liability company (the “Licensee”).

RECITALS

WHEREAS, on November 30, 2020, the Department of Planning and Development (“DPD”) issued a Request for Proposals (“RFP”) for the redevelopment of the real property located at 8840-54 S. Commercial Avenue in the South Chicago neighborhood (the “RFP Site”), as part of the City’s INVEST South/West initiative; and

WHEREAS, the City is the owner of the improved property located at 8840 S. Commercial Avenue (PIN 26-06-209-035) (the “8840 Property”), the improved property located at 8844 S. Commercial Avenue (PIN 26-06-209-036) (the “8844 Property”), and the vacant land located at 8848 S. Commercial Avenue (PIN 26-06-209-037) (the “Courtyard Property”), which together comprise the northern portion of the RFP Site; and

WHEREAS, the 8840 Property, the 8844 Property, and the Courtyard Property are each legally described on Exhibit A-1 attached hereto and depicted on Exhibit A-2 attached hereto, and are collectively referred to herein as the “City RFP Property”; and

WHEREAS, the 8840 Property is improved with a three-story masonry building, and the 8844 Property is improved with a two-story masonry building; and

WHEREAS, DPD selected Licensee as the winner of the South Chicago RFP; and

WHEREAS, DPD intends to demolish the two-story building on the 8844 Property and Licensee has proposed to renovate the three-story building on the 8840 Property (the “8840 Building”) as part of its redevelopment project; and

WHEREAS, until the City’s conveyance of the 8840 Property to Licensee, Licensee has agreed to secure and maintain the 8840 Building, including, without limitation, the work described on Exhibit B attached hereto (the “Building Maintenance Work”); and

WHEREAS, Licensee wishes to conduct a Hazardous Building Material Survey of the 8840 Building in accordance with the requirements set forth on Exhibit C-1, and also perform a Phase I Environmental Site Assessment (or update) of the City RFP Property and a Phase II Environmental Site Assessment of the City RFP Property in accordance with the Scope of Work attached hereto as Exhibit C-2 (collectively, the “Environmental Due Diligence Work”); and

WHEREAS, Licensee seeks access to the City RFP Property, including the 8840 Building, to perform the Building Maintenance Work and the Environmental Due Diligence Work (collectively, the “Activity”); and

WHEREAS, the City has agreed to grant such access upon the terms and conditions set forth herein.

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:

1. **Incorporation of Recitals.** The foregoing recitals 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.

2. **Agreement to Protect Bank Building; Grant of License.** Licensee acknowledges and agrees that it is obligated to perform the Building Maintenance Work. Subject to the terms and conditions set forth herein, the City hereby grants to Licensee a right of entry to the City RFP Property for the sole purpose of allowing Licensee to perform the Activity. The right of entry granted hereunder extends to, and Licensee shall be responsible for, its agents, employees, contractors, subcontractors, consultants, invitees, guests, vendors, patrons and any other parties who enter the City RFP Property at Licensee’s direction or with Licensee’s consent (collectively, “Agents”). Licensee shall be responsible for ensuring that all Agents comply with Licensee’s obligations under this Agreement, and non-compliance by any Agent shall be deemed to be non-compliance by Licensee. This right of entry is subject to all easements, encroachments, covenants, restrictions of record and not shown of record, and any other title encumbrances or defects affecting the City RFP Property. Licensee acknowledges that the City has not performed any title or survey work in connection with the negotiation and execution of this Agreement and agrees that it is Licensee’s sole responsibility and obligation to confirm that the Activity occurs solely within the portions of the City RFP Property permitted by this Agreement.

3. **Term.** The term of this Agreement (the “Term”) shall begin on the Effective Date and shall terminate upon the earlier of: (a) 180 days after the Effective Date; or (b) the closing of Licensee’s purchase of the City RFP Property. Prior to entering the City RFP Property, Licensee shall provide proof of insurance for itself and its Agents, as required by Section 8 of this Agreement, and copies of any necessary permits and approvals, if any, as required under Section 6 of this Agreement. Licensee agrees to notify the City at least two (2) days prior to commencing the Activity unless the City provides otherwise. Licensee further agrees to notify the City promptly upon early expiration of the Term under (b) above.

4. **Cost.** Licensee shall be responsible for all costs and expenses associated with the Activity without City reimbursement.

5. **Compliance with All Laws.** Licensee and its Agents shall comply at all times with any and all applicable municipal, county, state, federal or other statutes, laws (including common law), ordinances, codes, rules and regulations (collectively, “Laws”). Contract

provisions that are required to be included in this Agreement by any such Laws shall be deemed included.

6. **Permits.** Prior to entering the City RFP Property, Licensee must secure, or cause its Agents to secure, at its sole cost and expense, all necessary permits and governmental approvals required to perform the Activity. Licensee understands that this Agreement shall not act as a substitute for any such permits or approvals that may be required. Licensee shall provide copies of all required permits and approvals to the City prior to entering the City RFP Property.

7. **Indemnification.** Licensee shall indemnify, defend (through an attorney reasonably acceptable to the City) and hold the City, its officers, officials, employees, agents and representatives (collectively, the "City Parties"), harmless from and against any and all actions, claims, suits, complaints, demands, legal or administrative proceedings, losses, damages, debts, liens, obligations, liabilities, judgments, amounts paid in settlement, arbitration or mediation awards, interest, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, consultants' fees and court costs) (collectively, "Claims"), of whatsoever kind and nature, including without limitation, any and all environmental Claims, made or asserted by any third parties for injury, including personal injury or death of any person or persons, and for loss or damage to any property, occurring in connection with, or in any way arising out of or incident to (a) any and all acts, alleged acts or omissions of Licensee, its Agents or any other person entering the City RFP Property during the Term and (b) any entry upon or use of the City RFP Property or performance of the Activity by or on behalf of Licensee, its Agents or any other person entering the City RFP Property during the Term and (c) the failure of Licensee or its Agents to pay contractors, subcontractors or material suppliers in connection with this Agreement. The indemnification provided herein will be effective to the maximum extent permitted by Law and is not limited by any amount of insurance required under this Agreement.

Licensee shall be solely responsible for the defense of any and all Claims against the City Parties, including without limitation, claims by any Agents of Licensee, even though the claimants may allege negligence or intentional and willful misconduct on the part of the City Parties. The City shall have the right, at its sole option, to participate in the defense of any such Claims, without relieving Licensee of its obligations hereunder.

Licensee shall promptly provide, or cause to be provided, to the City of Chicago, Department of Law, at 121 N. LaSalle St., Room 600, Chicago, IL 60602, copies of such notices as Licensee may receive of any Claims for which the City Parties are entitled to indemnification hereunder and to give the City Parties authority, information, and assistance for the defense of any such Claims.

This Section 7 shall survive the expiration or termination of this Agreement (regardless of the reason for such termination).

8. **Insurance.** Licensee must provide and maintain, and cause its Agents to procure and maintain, at Licensee's own expense (or the expense of its Agents as applicable) during the Term, the insurance coverages and requirements specified in Exhibit D attached hereto, insuring all operations related to the Activity.

9. **Inspection and Work.** Licensee agrees to carefully inspect, or cause its Agents to carefully inspect, the City RFP Property prior to commencing any activities on the City RFP Property to ensure that such activities will not damage the City RFP Property or any surrounding property, structures, utility lines or subsurface lines or cables. Licensee and its Agents shall take all reasonable safety precautions to ensure that the Activity will not pose a danger to the public or have a negative impact on the neighboring community, including, without limitation, adequately securing the City RFP Property throughout the Term. Licensee and its Agents shall perform the Activity in a good and workmanlike manner with due care and diligence, and in accordance with all applicable Laws. Licensee and its Agents shall keep the City RFP Property and any adjoining sidewalks and streets free of debris and materials and generally in a clean and safe condition throughout the Term. Licensee and its Agents shall limit their activities to those reasonably necessary to perform the Activity. The City reserves the right to inspect the Activity throughout the Term.

10. **Spills.** If Licensee causes a spill or release of a Hazardous Substance or Other Regulated Material during the Activity, then Licensee must stop work immediately and contact AIS Environmental Health and Safety Bureau's Deputy Commissioner at 312-744-9139 and kimberly.worthington@cityofchicago.org. Licensee shall be responsible for cleaning up the spill including waste disposal as well as all notifications and reporting to any applicable agencies.

11. **Obligation to Restore the Property.** Upon completion of the Activity, Licensee shall promptly restore the City RFP Property to the condition or better existing as of the Effective Date, and shall remove all Personal Property, trash, wastes and debris placed on the City RFP Property by Licensee or its Agents. Licensee shall dispose of all trash, wastes and debris in accordance with all applicable Laws, including without limitation, all applicable Environmental Laws (as hereinafter defined). Any Personal Property, trash or debris left by Licensee on or about the City RFP Property shall be considered abandoned and may be disposed of in the City's sole discretion. Licensee agrees to pay for any removal or disposal costs the City may incur. The City shall be reimbursed for all sums it pays in connection with this Agreement. Such reimbursement shall occur within fifteen (15) days of such City payment, with interest accruing from the date of such City payment at the rate of 12% per annum. Licensee shall be responsible for any damage to the City RFP Property or any surrounding property, structures, utility lines or subsurface lines or cables caused by the acts or omissions of Licensee or its Agents, including but not limited to, vandalism or misuse of the City RFP Property, and shall undertake any repairs necessitated by such acts or omissions.

12. **No Liens.** Licensee shall not cause or permit any lien or encumbrance, whether created by act of Licensee or its Agents, operation of law or otherwise, to attach to or be placed upon the City's title or interest in the City RFP Property. In case of any such lien attaching, Licensee shall immediately pay and remove such lien. If Licensee fails to pay and remove any lien, the City, at the City's election, may, but is not obligated to, pay and satisfy same, and all sums so paid by the City shall be reimbursed by Licensee within fifteen (15) days of such payment with interest from the date of payment at the rate of 12% per annum.

13. **No Representations or Warranties; Release of City Parties.** The City makes no warranties or representations, express or implied, of any kind, as to the structural, physical or environmental condition of the City RFP Property or the suitability of the City RFP Property for any purpose whatsoever. Licensee, on behalf of itself and its Agents, agrees to enter upon the City RFP Property in the City RFP Property's "as is," "where is" and "with all faults" condition and at the Licensee's own risk. Licensee, on behalf of itself and its Agents, acknowledges that it is relying solely upon its own inspection and other due diligence activities and not upon any information (including, without limitation, environmental studies or reports of any kind) provided by or on behalf of the City or any of the City Parties with respect thereto. Licensee, on behalf of itself and its Agents, hereby releases, relinquishes and forever discharges the City and all City Parties from and against any and all Claims that Licensee or any of its Agents now have or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, based upon, arising out of or in any way connected with, directly or indirectly, (a) the structural, physical or environmental condition of the City RFP Property, including, without limitation, the presence or suspected presence of Hazardous Substances (as hereafter defined) in, on, under or about the City RFP Property, (b) the condition of title to the City RFP Property, including, without limitation, any easements, encroachments, covenants, restrictions of record and not shown of record, and any other title defects; and (c) any entry upon or use of the City RFP Property by or on behalf of Licensee or its Agents.

14. **Right to Terminate.** In the event of any breach of this Agreement by Licensee the City shall have the right to order Licensee to immediately cease all activities on the City RFP Property and to immediately vacate the City RFP Property until such breach is cured or the City may immediately terminate this Agreement and pursue any and all remedies available at law or in equity. The City also reserves the right to terminate this Agreement at any time if Licensee's use of the City RFP Property interferes with any municipal purpose or interest, as determined by the City in its sole discretion.

15. **Hazardous Substances and Other Regulated Material.** Licensee shall not use or store any Hazardous Substances (defined below) on the City RFP Property unless otherwise approved by AIS. Licensee shall promptly notify the City if Licensee discovers any Hazardous Substances or Other Regulated Material on the City RFP Property. As used in this Agreement, the term "**Hazardous Substances**" has the meaning set forth in 415 ILCS 5/3.215, as amended from time to time. "**Other Regulated Material**" shall mean any Waste, Contaminant, or any other material, not otherwise specifically listed or designated as a Hazardous Substance, that (a) is or contains: petroleum, including crude oil or any fraction thereof, motor fuel, jet fuel, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixtures of natural gas and such synthetic gas, asbestos, radon, any polychlorinated biphenyl, urea, formaldehyde foam insulation, explosive or radioactive material, materials known to contain per- and polyfluoroalkyl substances, i.e. PFAS, or (b) is a hazard to the environment or to the health or safety of persons. "**Environmental Laws**" shall mean any Federal, state, or local law, statute, ordinance, code, rule, permit, plan, regulation, license, authorization, order, or injunction which pertains to health, safety, any Hazardous Substance or Other Regulated Material, or the environment (including, but not limited to, ground, air, water or noise pollution or contamination, and underground or above-ground tanks) and shall include, without limitation, the Emergency

Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq.; the Gasoline Storage Act, 430 ILCS 15/0.01 et seq.; the Sewage and Waste Control Ordinance of the Metropolitan Water Reclamation District of Greater Chicago ("MWRD"); the Municipal Code of the City of Chicago; and any other local, state, or federal environmental statutes, and all rules, regulations, orders, and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

16. **Amendment.** This Agreement may not be amended, extended or modified without the written consent of the parties hereto.

17. **Captions.** The section headings in this Agreement are inserted for convenience of reference only and shall not in any way affect the meaning or construction of the Agreement.

18. **Entire Agreement.** This Agreement embodies the entire agreement and understanding between the parties and supersedes any prior oral or written agreements with respect to the matters stated herein.

19. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original instrument and all of which together shall constitute one and the same instrument. A facsimile, electronic, or photocopy signature shall have the same legal effect as an original signature.

20. **No Other Rights.** This Agreement does not give Licensee any other right with respect to the City RFP Property, including, but not limited to, closure of streets, sidewalks or other public thoroughfares. Any rights not specifically granted to Licensee by and through this Agreement are reserved exclusively to the City.

21. **No Further City Obligations.** The execution of this Agreement does not obligate the City or the City Parties to provide Licensee or Licensee's Agents with any other assistance. Without limiting the generality of the foregoing, the City shall not provide any security, maintenance, or custodial services to the City RFP Property.

22. **Security; Full Liability.** Licensee assumes all legal and financial responsibility and liability for any and all uses of the City RFP Property by Licensee, its Agents, and any other person or persons entering the City RFP Property during the Term or upon the expiration of the Term where Licensee continues to access the City RFP Property. Licensee shall be responsible for properly securing and safeguarding the City RFP Property and all Personal Property during the Term, and shall be liable for failing to so secure and safeguard the City RFP Property and

Personal Property. Licensee acknowledges that the City has no security responsibilities with respect to the City RFP Property or Personal Property under this Agreement. This Section 22 shall survive the expiration or earlier termination of this Agreement.

23. **No Principal/Agent or Partnership Relationship.** Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

24. **No Alcohol or Drugs.** Licensee agrees that no alcoholic beverages or illegal drugs of any kind or nature shall be sold, given away, or consumed on the City RFP Property by Licensee or its Agents.

25. **Coordination and Oversight.** Licensee acknowledges that the City may require coordination with the Department of Assets, Information & Services, which coordination may be necessary due to existing facilities, operations or other particular circumstances. Licensee acknowledges that any assistance or oversight provided by the City with respect to the Activity shall be provided at the City's sole and exclusive discretion and convenience.

26. **Time is of the Essence.** Time is of the essence for all obligations and deadlines contained in this Agreement.

27. **Assignment.** This Agreement may not be assigned by Licensee.

28. **Exhibits.** All exhibits referred to herein and attached hereto shall be deemed part of the Agreement.

29. **Non-Discrimination.** Licensee shall not discriminate against any person in connection with its use of the City RFP Property based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code.


30. **Severability.** If any provision of this Agreement is deemed to be unenforceable by any court of competent jurisdiction, it shall not affect the enforceability of any other provision.

31. **Governing Law; Consent to Jurisdiction.** This Agreement shall be governed and construed in accordance with the laws of the State of Illinois without reference to its conflicts of laws principles. Licensee waives any objection to the venue of any action filed in any court situated in the jurisdiction in which the City RFP Property is located.

32. **Licensee's Authority.** Licensee represents, warrants and covenants that it is duly organized, validly existing and qualified to do business in Illinois; that it has the right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder; that the person signing this Agreement on behalf of Licensee has the authority to do so; and that this Agreement shall be binding upon and enforceable against Licensee in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF CHICAGO, an Illinois municipal corporation

By: 
Sandra Blakemore
Commissioner
Department of Assets, Information & Services

548 CAPITAL LLC, an Illinois limited liability company

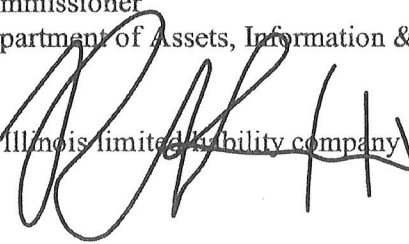

By: _____
Print Name: Robert Patton
Title: Managing Partner

EXHIBIT A-1

LEGAL DESCRIPTION OF CITY RFP PROPERTY

8840 PROPERTY (IMPROVED WITH 3-STORY BUILDING – TO BE RENOVATED)

LOTS 17 AND 18 IN BLOCK 23 IN SUBDIVISION MADE BY THE CALUMET AND CHICAGO CANAL AND DOCK COMPANY OF PARTS OF SECTIONS 5 AND 6, TOWNSHIP 37 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 8840 SOUTH COMMERCIAL AVENUE
CHICAGO, IL 60617

PINS: 26-06-209-035

8844 PROPERTY (IMPROVED WITH 2-STORY BUILDING – TO BE DEMOLISHED)

LOT 19 IN BLOCK 23 IN SUBDIVISION MADE BY THE CALUMET AND CHICAGO CANAL AND DOCK COMPANY OF PARTS OF FRACTIONAL SECTIONS 5 AND 6, TOWNSHIP 37 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 8844 SOUTH COMMERCIAL AVENUE
CHICAGO, IL 60617

PINS: 26-06-209-036

COURTYARD PROPERTY (VACANT)

LOT 20 IN BLOCK 23 IN SUBDIVISION MADE BY THE CALUMET AND CHICAGO CANAL AND DOCK COMPANY OF PARTS OF FRACTIONAL SECTIONS 5 AND 6, TOWNSHIP 37 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 8848 SOUTH COMMERCIAL AVENUE
CHICAGO, IL 60617

PINS: 26-06-209-037

EXHIBIT A-2

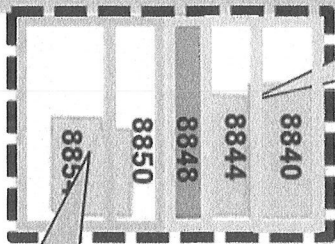
DEPICTION OF CITY RFP PROPERTY

Photo of Site



89TH ST

EXCHANGE AVE



City of Chicago

548
Development

COMMERCIAL AVE

Overhead View of Lots

EXHIBIT B

BUILDING MAINTENANCE WORK

1. Licensee shall keep the Bank Building boarded and secured and prevent freezing in the gutters/downspouts.
2. Licensee shall clear snow in the public way, cut grass, and trim weeds around the property.

EXHIBIT C-1

HAZARDOUS BUILDING MATERIAL SURVEY REQUIREMENTS

The Hazardous Building Material Survey shall include, without limitation, asbestos and lead based paint (LBP) survey, visually inspecting the subject property to determine the presence and location of polychlorinated-biphenyl (PCB)-containing equipment and materials (such as lighting ballasts, switchgears, transformers, and hydraulic fluids), mercury-containing equipment and materials (mercury lamps, thermostats, switches, thermometers, regulators, and gauges), radioactive material-containing equipment and/or waste, medical wastes (such as biological or infectious wastes, hazardous chemicals, and/or wastes), refrigerants such as chlorofluorocarbons (CFCs), large appliances or equipment, or any other materials that may require special handling or disposal during or after demolition.

EXHIBIT C-2

PHASE II SCOPE OF WORK

(ATTACHED)



Environmental Engineers, Geologists and Scientists

Tel 847.573.8900
Fax 847.573.8953

Polo Park Business Center
27834 N. Irma Lee Circle
Lake Forest, Illinois 60045-5130

March 23, 2022

City of Chicago
Dept. of Fleet and Facility Management
Office of Real Estate Management
30 North LaSalle Street, Suite 300
Chicago, Illinois 60602

To Whom It May Concern:

DAI Environmental, Inc. (DAI) is seeking access to City owned properties addressed as 8848 S. Commercial Ave, Chicago, Illinois, to conduct a Phase II Investigation. Any excess soil generated during these activities that cannot be returned to the bore holes will be disposed of at a licensed facility.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard J. Vamos".

Richard J. Vamos, P.E.
Vice President, DAI

**DAI ENVIRONMENTAL, INC
WORK SCOPE**

TO: Mr. A.J. Patton 548 Development LLC 700 N. Larrabee Street, Suite 1301 Chicago, IL 60654	DATE: March 25, 2022
	PROJECT NAME: 89 Galleria
	PROJECT #: 7405

OBJECTIVES:

Conduct Phase II Subsurface Soil and Groundwater investigation of property with address range of 8840-8856 S. Commercial Avenue, Chicago, IL

SCOPE OF SERVICES:

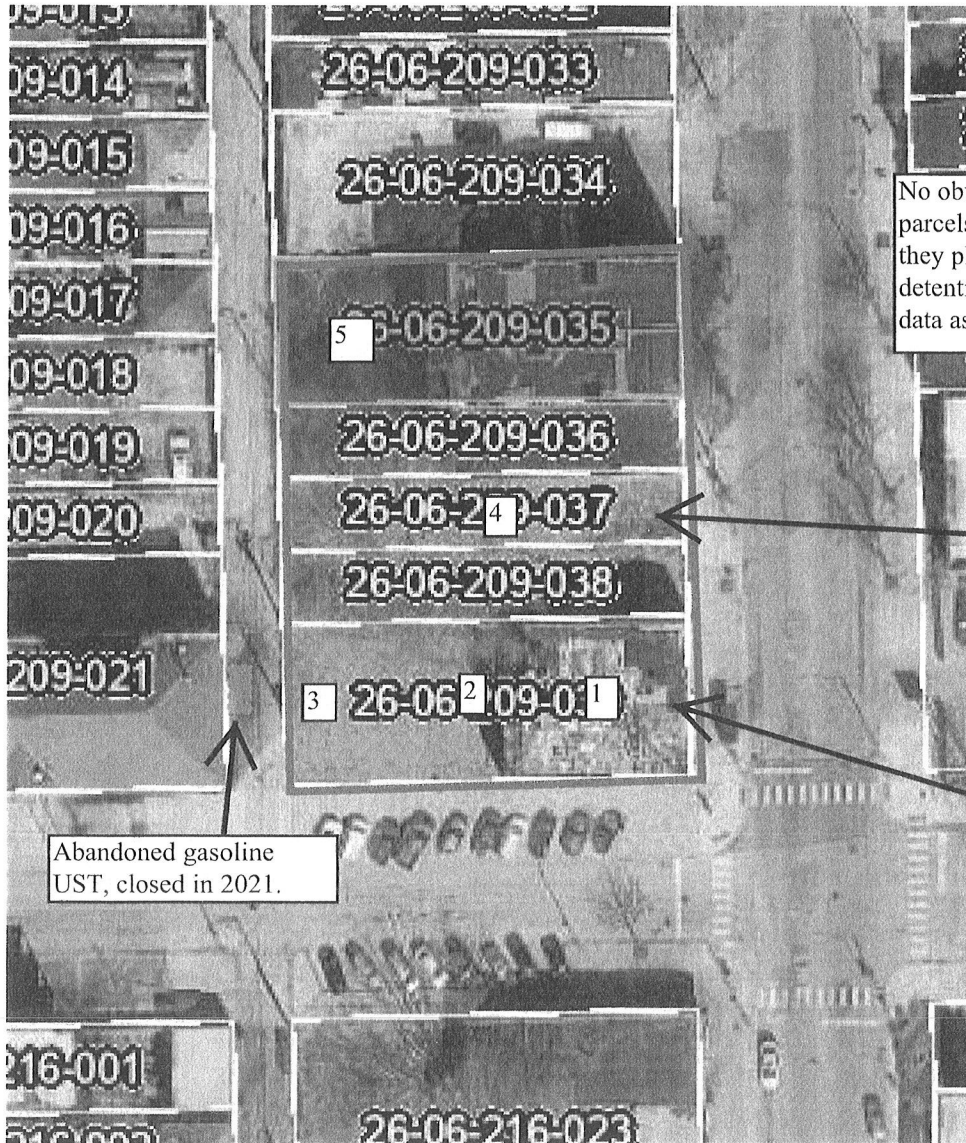
- Review previous Phase I, conduct preliminary site visit, and develop sampling plan.
- Conduct 1-day, 5-boring/temporary well investigation, with focus on Volatile Organic Compounds (VOCs) due to stated possible historical dry-cleaning operations and off-site (to west) gasoline UST concerns. Collect 1-soil sample per boring at 4-borings and 2-samples at the soil boring placed at future detention basin (rear of residential building), for subsequent laboratory analysis of a range of contaminants, principally Volatile Organic Compounds (VOCs), but also some Polynuclear Aromatic Hydrocarbons (PAHs), Total RCRA Metals, pH, TAL metals, and/or the full TCL list. While VOCs are the ONLY realistic concern w/respect to dry cleaning, additional analyses are proposed for soil samples to assess possible disposal options for excess soil. Groundwater samples to be analyzed ONLY for VOCs. See attached for a listing of assumed sample analyses for soil borings and wells.
- The attached site plan shows a preliminary boring map.
- Soil borings installed to maximum depth of 15-ft bgs (which, based on review of reports on adjacent property to west, should be adequately deep to collect groundwater samples). Groundwater temporary wells will be installed in boreholes via 1-inch diameter PVC screen and riser. If no groundwater is encountered, a deep soil sample will be collected in addition to a shallow sample, and submitted for laboratory analysis. If refusal encountered, the depth of boring may be reduced.
- Soil samples will be logged/classified in the field by DAI personnel, and screened in the field using a photoionization detector (PID) to measure total volatile organic compounds (VOCs) in the headspace of the soil samples.
- All laboratory analyses to be conducted by independent, certified, laboratory.
- Provide brief letter report summarizing investigation and results, comparing results to IEPA Tier 1 Remediation Objectives based on Residential property use and Class I and II groundwater classifications, and providing brief discussion and analysis of environmental liabilities based on the results.

ASSUMPTIONS/NOTES:

- Standard turnaround time with laboratory results (5-7-business days), i.e., no expedited fees.
- Assumes 1-day on-site for drilling/sampling, with one boring inside building on the southern parcel.
- Soil sample from soil boring 3 located just east of alley, will be collected from a depth commensurate with the abandoned UST invert, to assess possible gasoline contamination impacts. At other boring locations, soil samples submitted for laboratory analysis will generally be collected from near-surface depth intervals (e.g., 0.5-2.5-ft bgs,) to assess possible contamination from surface spills, unless field screening results suggest laboratory analysis of a different depth interval is more appropriate.
- If the boring/well inside building cannot be drilled deep enough by hand equipment to reach/collect groundwater sample, a soil sample from the deepest depth interval of the boring will additionally be collected for subsequent laboratory analysis of VOCs, in lieu of a groundwater sample.
- Assume access is granted to all drilling locations and that it is acceptable to cut down any trees with chain saw where they impede access to drill, and to temporarily remove fencing as needed.

-035 is 8840
-036 is 8844
-037 is 8848
-038 is 8850
-039 is 8854

Proposed DAI Environmental Boring Locations
8840-8854 S. Commercial Avenue, Chicago, IL



No obvious concerns on the other parcels. Boring 5 is placed as they plan to dig for stormwater detention here, so, good to get data as to clean CCDD or not.

The -037 is the only parcel owned by City of Chicago, as far as I've been told. Boring placed here specifically to provide data on City-owned parcel.

The only Phase I RECs were on-site possible historical dry cleaning on the southern parcel (tbh, the evidence of that was extremely thin), and the off-site abandoned gasoline UST in the alley. Hence, indicator contaminants are really only VOCs, and maybe Lead for the gasoline UST.

Abandoned gasoline UST, closed in 2021.

Numbered boxes represent projected soil boring/temporary well locations.

DAI Plan of Soil and Groundwater Sample Analyses, 89-Galleria, S. Commercial Avenue, Chicago

Area	Boring ID	VOC Soil	PAHs Soil	Full TCL soil	Pb in Soil	RCRA M Soil	TAL Metals soil	pH in Soil	PCBs Soil	TCL GW	PAHs GW	VOCs GW	RCRA M tot GW	RCRA M Dis. GW	Notes
Bldg at S.E. Corner	1	1	0	0	0	0	0	0	0	0	0	1	0	0	
West 1	2	1	1	0	0	1	0	1	0	0	0	1	0	0	
West 2	3	1	0	0	1	0	0	0	0	0	0	1	0	0	
8848 S. Commercial	4	1	1	0	0	1	0	1	0	0	0	1	0	0	
West of Res Bldg.	5S	0	0	1	0	0	0	1	0	0	0	0	0	0	
West of Res Bldg.	5D	0	1	0	0	0	1	1	0	0	0	1	0	0	
Totals	5	4	3	1	1	2	1	4	0	0	0	5	0	0	

Note: TCL List = VOCs, SVOCs, TAL Metals, PCBs, pH, Pesticides

EXHIBIT D

INSURANCE REQUIREMENTS

Licensee must provide and maintain, and cause its Agents to procure and maintain, at Licensee's own expense (or the expense of its Agents as applicable) during the Term, the insurance coverages and requirements specified below, insuring all operations related to the Activity.

Workers Compensation and Employers Liability

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

Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance, or equivalent, with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent).

The City of Chicago is to be named as an additional insured under the Licensee's and any subcontractor's policy. Such additional insured coverage shall be provided on ISO endorsement form CG 2010 for ongoing operations or on a similar additional insured form acceptable to the City. The additional insured coverage must not have any limiting endorsements or language under the policy such as but not limited to, Licensee's sole negligence or the additional insured's vicarious liability. Licensee's liability insurance shall be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City. Licensee must ensure that the City is an additional insured on insurance required from subcontractors.

Automobile Liability (Primary and Umbrella)

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

When applicable, coverage extension must include a) an MC-90 endorsement where required by the Motor Carrier Act of 1980 and b) pollution coverage for loading, unloading and transportation of hazardous, materials.

Professional Liability

When any architects, engineers, construction managers or other professional consultants

perform work or services in connection with the Activity, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$1,000,000. 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.

Contractors Pollution Liability

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

Property

The Licensee is responsible for all loss or damage to City property at full replacement cost that results from the Activity.

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

ADDITIONAL REQUIREMENTS

The Licensee must furnish, or cause its contractors or subcontractors to furnish, to the City of Chicago, Department of Assets, Information & Services, 2 N. LaSalle, Suite 200, Chicago, IL 60602 original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Licensee must submit evidence of insurance on an Insurance Certificate Form prior to execution of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements in this Agreement. The failure of the City to obtain certificates or other insurance evidence from Licensee (or its contractors or subcontractors as applicable) is not a waiver by the City of any requirements for the Licensee to obtain and maintain the specified coverages. The Licensee shall advise all insurers of the Agreement provisions regarding insurance and the nature of its use of the City RFP Property. Non-conforming insurance does not relieve Licensee of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to order Licensee to cease all activities on the City RFP Property until proper evidence of insurance is provided, or the Agreement may be terminated.

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

Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Licensee.

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

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

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

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

If the Licensee maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Licensee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

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

The Licensee must require all subcontractors to provide the insurance required herein, or Licensee may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Licensee unless otherwise specified in this Agreement. Licensee must ensure that the City is an additional insured on Endorsement CG 2010 of the insurance required from subcontractors.

If Licensee or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

Notwithstanding any provision in the Agreement to the contrary, the City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

The City of Chicago is not responsible to provide insurance or security for the City RFP Property, or any vehicles, materials, equipment other personal property of Licensee or any of its contractors, subcontractors or other agents related to or in connection with the activity of Agreement.

EXHIBIT B

FIRST AMENDMENT TO RIGHT OF ENTRY AND BUILDING MAINTENANCE AND PROTECTION AGREEMENT

This First Amendment to Right of Entry and Building Maintenance and Protection Agreement (this “First Amendment”) is entered into as of August 9, 2023, between **548 CAPITAL LLC**, an Illinois limited liability company (“Licensee”), and the **CITY OF CHICAGO**, an Illinois municipal corporation and home rule unit of government (the “City”), through its Department of Assets, Information and Services (“DAIS”).

WITNESSETH:

WHEREAS, Licensee and the City are parties to that certain Right of Entry and Building Maintenance and Protection Agreement dated February 10, 2023 (the “Agreement”), relating to the City RFP Property; and

WHEREAS, Licensee and the City desire to modify the terms of the Agreement, as more specifically set forth below.

NOW THEREFORE, in consideration of the mutual covenants and agreements of the parties and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Defined Terms. All capitalized terms used in this First Amendment shall have the same meanings given to said terms in the Agreement, unless otherwise expressly provided herein.

2. Term. The first sentence of Paragraph 3 of the Agreement is hereby amended to delete the language struck-through and insert the language underlined, as follows

The term of this Agreement (the “Term”) shall begin on the Effective Date and shall terminate upon ~~the earlier of: (a) 180 days after the Effective Date; or (b) the closing of Licensee’s purchase of the City RFP Property.~~

3. Counterparts. This First Amendment may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

4. Entire Agreement. This First Amendment embodies the entire agreement and understanding between the parties and supersedes any prior oral or written agreements with respect to the matters stated herein.

5. Incorporation of Amendment. Licensee and the City hereby agree that (a) this First Amendment is incorporated into and made a part of the Agreement, and (b) any and all references to the Agreement hereinafter shall include this First Amendment.

6. Ratification. Except as provided in this First Amendment, the terms of the Agreement are hereby ratified and confirmed and the parties agree that the provisions contained therein are in full force and effect, as amended hereby, as of the date hereof.

IN WITNESS WHEREOF, License and the City have executed this First Amendment as of the date first above written.

CITY OF CHICAGO, an Illinois municipal corporation

By: _____

Sandra Blakemore

Commissioner

Department of Assets, Information and Services

548 CAPITAL LLC, an Illinois limited liability company

By: _____

Name: _____

Its: _____