

FIN



OFFICE OF THE MAYOR
CITY OF CHICAGO

BRANDON JOHNSON
MAYOR

November 15, 2023

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith an ordinance authorizing the execution of an amended TIF redevelopment agreement with 4300 Roosevelt LLC.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in blue ink, appearing to read "BJ Johnson", written over the printed name "Mayor".

Mayor

ORDINANCE

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

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

WHEREAS, pursuant to an ordinance adopted by the City Council ("City Council") on February 5, 1998, and published at pages 60917 to 61057 of the Journal of the Proceedings of the City Council (the "Journal") of such date, a certain redevelopment plan and project (the "Plan") for the Roosevelt/Cicero Area Redevelopment Project Area (the "Area") was approved pursuant to the "Act"; and

WHEREAS, pursuant to an ordinance adopted by the City Council on February 5, 1998, and published at pages 61058 to 61064 of the Journal of such date, the Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, pursuant to an ordinance adopted by the City Council on February 5, 1998, and published at pages 61065 to 61071 of the Journal of such date (the "TIF Ordinance"), tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

WHEREAS, the Plan and/or the Area were amended pursuant to ordinances adopted by the City Council on November 1, 2016 and published at pages 35175 to 35321 of the Journal of such date, on April 24, 2020 and published at pages 15320 to 15323 of the Journal of such date, and on October 26, 2022 and published at pages 53015 to 53018 of the Journal of such date; and

WHEREAS, pursuant to an ordinance adopted by the City Council on December 14, 2022 and published at pages 57419 - 57488 of the Journal (the "Authorizing Ordinance"), the City Council authorized the City to enter into a redevelopment agreement ("RDA") with 4300 Roosevelt LLC, an Illinois limited liability company ("the Developer") for the construction of a project to be located 4300 West Roosevelt Road and 4301 West Fifth Avenue, Chicago, Illinois and

WHEREAS, subsequent to the adoption of the Ordinance but prior to the execution of the RDA, the Developer has encountered a number of additional challenges that have caused changes to the nature and timing of the project and that require amendments to certain provisions of the form of RDA authorized by the Ordinance; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

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

SECTION 2. The form of RDA attached to the Ordinance as Exhibit C is hereby amended, as follows:

(1) Section 8.05 is replaced in its entirety with the following language:

“8.05 Conditional Grant. The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The City Funds are subject to being reimbursed as follows:

(a) For purposes of this Section 8.05, the term "Capital Event" shall mean and include any arms-length sale, transfer or refinancing of the Project or any part thereof. If a Capital Event occurs prior to the expiration of the Compliance Period, then Developer agrees to pay and remit to the City an amount equal to 30% of the amount by which the Distributable Cash Flow exceeds the amount needed for Developer to achieve the “Base IRR Threshold” (defined below), provided that the aggregate amount of said payment to the City shall not exceed the amount of City Funds actually received by Developer. For purposes of this section, the “Base IRR Threshold”, shall be the amount of proceeds sufficient for Developer to achieve a leveraged internal rate of return on equity, calculated as of the date of the Capital Event in the manner described below (“IRR”), of 25%

Definitions. As used in this Section 8.05, the following terms shall have the following meanings:

(i) “Additional Capital Expenditure(s)” means any costs or expenses, excluding Project Expenditures, with respect to the Project that are properly categorized as capital in nature under Generally Accepted Accounting Principles, provided such costs or expenses are approved by the Commissioner.

(ii) “Amortization” means those certain amortization amounts for the Project as set forth in the audited annual Financial Statements.

(iii) “Debt Service” means annual interest and principal payments on Lender Financing.

(iv) “Depreciation” means those certain depreciation amounts for the Project as set forth in the audited annual Financial Statements.

(v) “Distributable Cash Flow” means Net Operating Income *less* Project Expenditures, Additional Capital Expenditures, Lender required reserves and Debt Service.

(vi) “Equity Investment” means all Equity paid for or into the Project for (i)

Project Expenditures, and (ii) Additional Capital Expenditures, exclusive of debt and reduced by any payments made to the Developer that constitute a return of such Equity.

(vii) "Income Taxes" means those certain income tax amounts for the Project as set forth in the audited annual Financial Statements.

(viii) "Net Operating Income" means, with respect to any applicable period, Project Revenues minus Operating Expenses of the Project.

(ix) "Operating Expenses" means those certain operating expenses set forth in the audited annual Financial Statements including Debt Service and any Lender required reserves, but excluding any reserves arising in connection with a Capital Event, Income Taxes, Depreciation and Amortization.

(x) "Project Expenditures" means actually incurred costs of initial construction, furnishing, equipping, and opening of the Project, as set forth in the Project Budget

(xi) "Project Revenues" means those certain revenues for the Project as set forth in the audited annual Financial Statements, including net proceeds to the Developer (as evidenced on the executed settlement statement), resulting from a Capital Event.

(b) The IRR will be calculated on a leveraged basis based on the Equity Investment contributed to the Project as of the date of the calculation (and shall be cumulative so as to include all Capital Events prior to such date), and Distributable Cash Flow including payments of City Funds actually made.

(c) Upon the occurrence of a Capital Event of less than the entire Project (a "Partial Capital Event"), any resulting successor owner (or the Developer in the case of a partial refinance) shall have no further obligations or liabilities under this Section 8.05 with respect to the portion of the Project that is the subject of the Partial Capital Event; provided, however, that this Section 8.05 shall remain in force and effect for the remaining portion of the Project that has not been the subject of a Partial Capital Event, and the net proceeds of any Partial Capital Event shall be included and accounted for in the IRR calculation, with respect to the portion of the Project that was not subject to the Partial Capital Event.

(d) Any amounts remitted to the City pursuant to this Section 8.05 shall be deposited by the City into a separate account within the TIF Fund and shall be used for Redevelopment Project Costs.

(e) Any amounts due and owing to the City pursuant to this Section 8.05 due to the occurrence of a Capital Event shall be paid by the Developer on the closing date of such Capital Event.

The Developer must give the City 30 days advance written notice of any Capital Event or Partial Capital Event. Except as set forth above with respect to a Partial Capital Event, this Section 8.05 shall remain in effect until the earlier to occur of (i) the occurrence of a Capital Event with respect to all portions of the Project (whether a single Capital Event or multiple Partial Capital Events), or (ii) expiration of the Compliance Period.”

(2) Section 8.06(a)(ii) is replaced in its entirety with the following language:

“(ii) The Developer shall maintain Minimum Occupancy for each Reporting Period. The Developer shall deliver an occupancy progress report certifying compliance with the requirement (the “Occupancy Report”) to maintain a Minimum Occupancy (the “Occupancy Covenant”) for the Reporting Period, such request to be submitted each year, through the Term of the Agreement. The Developer shall cause the Property to be used as described in Recital E, as permitted pursuant to the Redevelopment Plan and this Agreement. The Developer hereby covenants and agrees to maintain Minimum Occupancy through the Term of the Agreement. Once Developer has achieved occupancy of 50% of the total square footage of the Facility and Innovation Center Buildings in the aggregate, the Occupancy Covenant shall terminate and no longer run with the land or be applicable to any transferee of the Property thereafter.”

(3) Section 8.06(d) is replaced in its entirety with the following language:

“(d) *Jobs Covenant*. No fewer than 250 full-time equivalent, permanent jobs shall be created by Developer at the Facility (and/or its tenants and employees occupying the Innovation Center Buildings) within three (3) years of the Closing Date. If the Developer fails to initially create 250 jobs as required by this Section 8.06(d), Developer shall reimburse the City \$100,000 for each job below the required amount up to a maximum of \$8,000,000. There shall be no continuing Reporting Period after either 1) the 250-job requirement is initially satisfied or 2) the Developer reimburses the City \$100,000 for each job below the 250 job target (up to a maximum of \$8,000,000) if it fails to meet the 250 job target within three (3) years of the Closing Date (or by the time a Capital Event occurs, whichever is sooner). Upon the occurrence of either items 1) or 2) in the preceding sentence, the Jobs Covenant shall terminate and no longer run with the land nor be binding upon any transferee of the Property thereafter.”

(4) The definition of “Closing Date” in Section 2 shall be modified to state that the Closing Date shall occur no later than nine (9) months after the date City Council adopts this ordinance.

SECTION 3. The Commissioner of Planning and Development (the “Commissioner”), or a designee of the Commissioner, is each hereby authorized, with the approval of the City's Corporation Counsel, to negotiate, execute and deliver a redevelopment agreement between the Developer and the City in substantially the form attached to the Authorizing Ordinance, as amended by this ordinance (the “Redevelopment Agreement”), and such other supporting

documents as may be necessary to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement.

SECTION 4. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

SECTION 5. This ordinance shall be effective as of the date of its passage and approval.