

Exhibit A to the Ordinance

Form of Redevelopment Agreement

[see attached]

This Agreement was prepared by
And after recording return to:
Keith A. May, Esq.
City of Chicago Department of Law
121 North LaSalle Street, Room 600
Chicago, IL 60602

BR CONGRESS OWNER, LLC (CONGRESS THEATER)
REDEVELOPMENT AGREEMENT

This BR Congress Owner, LLC (Congress Theater) Redevelopment Agreement (this “Agreement”) is made as of this ___ day of _____, 2023, between and among the City of Chicago, an Illinois municipal corporation (the “City”), through its Department of Planning and Development (“DPD”), BR Congress Owner, LLC, an Illinois limited liability company (“BRCO”) and Congress Theater NFP, an Illinois not for profit corporation (“NFP”) (NFP and BRCO are collectively referred to herein as the “Developer”).

RECITALS

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

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the “Act”), to finance projects that eradicate blighted conditions and conservation area factors through the use of tax increment allocation financing for redevelopment projects.

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the “City Council”) adopted the following ordinances on February 16, 2000: (1) “An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Fullerton/Milwaukee Redevelopment Project Area” (the “Plan Adoption Ordinance”); (2) “An Ordinance of the City of Chicago, Illinois Designating the Fullerton/Milwaukee Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act”; and (3) “An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Fullerton/Milwaukee Redevelopment Project Area” (the “TIF Adoption Ordinance”) (items(1)-(3), as amended, collectively referred to herein as the “TIF Ordinances”). The redevelopment project area referred to above (the “TIF Redevelopment Area”) is legally described in Exhibit A hereto.

D. The Project: Developer intends to acquire (the "Acquisition") certain property located within the Redevelopment Area generally at 2135 North Milwaukee Avenue, Chicago, Illinois 60647 and legally described on Exhibit B hereto with multiple buildings thereon commonly known as the Congress Theater (the "Property"). Within the time frames set forth in Section 3.01 hercof, the Developer shall: Restore the Property to include the core and shell for a state-of-the-art entertainment and live performance music venue (the "Theater") to be operated by AEG Presents Chicago, LLC, a Delaware limited liability company or an affiliate thereof (the "Tenant") it being understood that the Tenant will complete the renovations on the Theater to its specifications; rehabilitate existing space within the so-called North Milwaukee Avenue building with no fewer than 16 residential units, 14 of which shall be affordable -- two (2) shall be affordable to households with incomes not greater than 40% of area median income ("AMI"); three (3) shall be affordable to households with incomes not greater than 50% of AMI; four (4) shall be affordable to households with incomes not greater than 60% of AMI or less; three (3) shall be affordable to households with incomes not greater than 70% of AMI; and (2) two shall be affordable to households with incomes not greater than 80% of AMI (individually, an "Affordable Unit" and collectively, the "Affordable Units"); renovate theater offices and approximately 13,000 square feet of retail and restaurant space along Rockwell and Milwaukee Avenues; and convert a portion of the existing space in the so-called North Rockwell building into "affordable" office/work space for Local Tenants (as defined herein). For the purposes of the office/work space, "affordable" means base rents (i.e., exclusive of taxes, CAM, insurance and other reasonable operating expenses) that are no greater than 70% of market rents. Market rents shall be based on comparable office or work space in the Logan Square Community Area or within a 0.5 mile radius at the time of the commencement of such lease. Market rents shall be determined by Developer using a real estate broker licensed in the State of Illinois, specializing in the field of commercial office leasing in the Logan Square Community Area having no less than ten (10) years' experience in such field, and be recognized as ethical and reputable within the field. The Acquisition, renovation of the core and shell of the Theater, the renovation work to complete 16 residential dwelling units (14 of which to be affordable), the renovation work of the retail and restaurant space and the renovation of the office/work space are collectively referred to as the "Project."

While this Agreement does not impose any job creation or retention obligations on the Developer or the Tenant, it is anticipated that the Project will create 125 new, permanent jobs and 200 temporary construction jobs.

In connection with the operations of the Theater at the Property, Developer, as landlord, and the Tenant have executed that certain First Amendment to Lease Agreement dated ____, 2023, amending that certain Lease Agreement dated August 26, 2016 (as amended from time to time, the "Lease") pursuant to which Developer has, among other matters, leased the Theater portion of the Property to Tenant.

The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago Fullerton/Milwaukee Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan") included in the

Plan Adoption Ordinance and published at pages 25063 through 25162 of the Journal of the Proceedings of the City Council.

F. City Financing: The City agrees to use, in the amounts set forth in Section 4.03 hereof, Available Incremental Taxes (as defined below), to pay for or reimburse Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement.

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

SECTION 1. RECITALS, HEADINGS AND EXHIBITS

The foregoing recitals are hereby incorporated into this Agreement by reference. The paragraph and section headings contained in this Agreement, including without limitation those set forth in the following table of contents, are for convenience only and are not intended to limit, vary, define or expand the content thereof. Developer agrees to comply with the requirements set forth in the following exhibits which are attached to and made a part of this Agreement. All provisions listed in the Exhibits have the same force and effect as if they had been listed in the body of this Agreement.

Table of Contents	List of Exhibits
1. Recitals, Headings and Exhibits 2. Definitions 3. The Project 4. Financing 5. Conditions Precedent 6. Agreements with Contractors 7. Completion of Construction or Rehabilitation 8. Covenants/Representations/Warranties of Developer 9. Covenants/Representations/Warranties of the City 10. Developer's Employment Obligations 11. Environmental Matters 12. Insurance 13. Indemnification 14. Maintaining Records/Right to Inspect 15. Defaults and Remedies 16. Mortgaging of the Project 17. Notice 18. Miscellaneous	A *Redevelopment Area B *Property C *TIF-Funded Improvements D *Permitted Liens E-1 *Project Budget E-2 *MBE/WBE Budget F Approved Prior Expenditures G Requisition Form (An asterisk (*) indicates which exhibits are to be recorded.)

SECTION 2. DEFINITIONS

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

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

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

“Affordable Unit(s)” shall have the meaning set forth in the Recitals hereof.

“Annual Compliance Report” shall mean a signed report from Developer to the City (a) itemizing each of Developer’s obligations under the Agreement during the preceding calendar year, (b) certifying Developer’s compliance or noncompliance with such obligations, (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance and (d) certifying that Developer is not in default with respect to any provision of the Agreement, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the Operating Covenant and Occupancy Covenant (Section 8.06 and Section 8.26); (2) delivery of Financial Statements and unaudited financial statements (Section 8.13); (3) delivery of updated insurance certificates, if applicable (Section 8.14); (4) delivery of evidence of payment of Non-Governmental Charges, if applicable (Section 8.15); (5) delivery of evidence that Chicago Sustainable Development Policy has been obtained (Section 8.22); (6) compliance with Affordable Housing Covenant and, to the extent permitted by law, a list of tenants of the Affordable Units (Section 7.01 and Section 8.24); (7) List of tenants of retail spaces of the Project (Section 7.01 and Section 8.26); (8) an estimate of the number of jobs created at the Property; and (9) compliance with all other executory provisions of the Agreement.

“Available Incremental Taxes” shall mean Incremental Taxes collected from the Redevelopment Area, less the City Fee.

“Available Project Funds” shall have the meaning set forth for such term in Section 4.07 hereof.

“Capital Event” shall have the meaning set forth for such term in Section 4.09 hereof.

“Certificate” shall mean the Certificate described in Section 7 hereof.

“Certification of Expenditure” shall mean the Certification of Expenditure described in Section 4.11 and Section 7.01(a) hereof.

“Change Order” shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in Section 3.03, Section 3.04 and Section 3.05, respectively.

“Chicago’s Sustainable Development Policy” shall mean that certain sustainable development policy established and published by DPD as of the Effective Date.

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

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

“City Fee” shall mean the fee described in Section 4.05(c) hereof.

“City Funds” shall mean the funds paid to Developer pursuant to the funds from Available Incremental Taxes described in Section 4.03(b) hereof. The maximum aggregate amount of City Funds shall not be in excess of \$27,000,000.

“Closing Date” shall mean the date of execution and delivery of this Agreement by all parties hereto, which shall be deemed to be the date appearing in the first paragraph of this Agreement. Failure to meet a Closing Date with the City within 180 days of approval by City Council will be considered an Event of Default.

“Completion Date” shall have the meaning set forth in Section 3.01 hereof.

“Compliance Period” shall mean a period beginning on the date of issuance of the Certificate and concluding on the ending date of the Term of the Agreement, subject to extensions pursuant to Section 15.03.

“Contract” shall have the meaning set forth in Section 10.03 hereof.

“Contractor” shall have the meaning set forth in Section 10.03 hereof.

“Construction Contract” shall mean that certain contract, as reviewed and approved by DPD, to be entered into between Developer and the General Contractor providing for construction of the Project.

“Corporation Counsel” shall mean the City’s Department of Law.

“EDS” shall mean the City’s Economic Disclosure Statement and Affidavit, on the City’s then-current form, whether submitted in paper or via the City’s online submission process.

“Employer(s)” shall have the meaning set forth in Section 10 hereof.

“Environmental Laws” shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called “Superfund” or “Superlien” law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251

et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code.

“Equity” shall mean funds of Developer (other than funds derived from Lender Financing) irrevocably available for the Project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.06 (Cost Overruns) or Section 4.03(b).

“Escrow” shall mean the applicable construction escrow established pursuant to any applicable Escrow Agreement.

“Escrow Agreement” shall mean the Escrow Agreement establishing a construction escrow, entered into by the Title Company (or an affiliate of the Title Company), the Developer and the Developer’s lender(s), in form and content reasonably acceptable to DPD.

“Event of Default” shall have the meaning set forth in Section 15 hereof.

“Financial Interest” shall have the meaning set forth for such term in Section 2-156-010 of the Municipal Code.

“Financial Statements” shall mean complete audited financial statements of Developer prepared by a certified public accountant in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods.

“General Contractor” shall mean the general contractor(s) hired by Developer pursuant to Section 6.01.

“Hazardous Materials” shall mean any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

“HTC Investor” shall mean the to-be-admitted, up to 99% member of BRCO providing Equity to BRCO in exchange in part for the receipt of federal historic tax credits related to the Project.

“Human Rights Ordinance” shall have the meaning set forth in Section 10 hereof.

“In Balance” shall have the meaning set forth in Section 4.07 hereof.

“Incremental Taxes” shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

“Indemnitee” and “Indemnitees” shall have the meanings set forth in Section 13.01 hereof.

“Lender Financing” shall mean funds borrowed by Developer from lenders and irrevocably available to pay for costs of the Project, in the amount set forth in Section 4.01 hereof.

“Letter of Credit” shall mean the initial irrevocable, direct pay Letter of Credit naming the City as the sole beneficiary for up to \$27,000,000 delivered to the City pursuant to Section 4.12 hereof, and, unless the context or use indicates another or different meaning or intent, any substitute Letter of Credit delivered to the City, in form and substance satisfactory to the City in its sole and absolute discretion, and any extensions thereof.

“Local Tenants” shall mean tenants that are (a) community organizations whose principal place of operation is within the Logan Square Community Area or within 1.5 miles from the Property; (b) businesses that are majority owned by one or more residents of the Logan Square Community Area or reside within 1.5 miles from the Property; (c) artists or artisans that are residents of the Logan Square Community Area or reside within 1.5 miles from the Property; or (d) such other tenants acceptable to DPD.

“Managing Member” shall mean the manager and/or managing member of BRCO which has day-to-day control of BRCO.

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

“MBE/WBE Budget” shall mean the budget attached hereto as Exhibit E-2 with respect to the Project, as described in Section 10.03.

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

“Municipal Code” shall mean the Municipal Code of the City of Chicago, as amended from time to time.

[“Net Annual Cash Flow” shall mean the amount remaining from Net Operating Income after payment of debt service, repayment of TIF Funds pursuant to Section 4.09 herein, 20% return on senior equity (including accrued returns), senior equity principal, 20% return on Developer equity and developer equity principal. Historic Tax Credits will not be counted as debt or equity].

[“Net Operating Income” shall mean, with respect to any given year, Project Revenues minus Operating Expenses with respect to the Project].

“New Mortgage” shall have the meaning set forth in Article 16 hereof.

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

[“Operating Expenses” shall mean 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].

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

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

“Permitted Transfer” shall mean (a) the transfer by the HTC Investor of its membership interest to an Affiliate of the HTC Investor pursuant to the Operating Agreement of BRCO upon the City’s receipt of its corporate documents, an EDS, and any other affidavits or certifications as requested by the City and as may be required by federal, state or local law in the award of public contracts as contemplated by Section 5.14; and (b) the HTC’s Investor member’s sale of its interest in BRCO to the Managing Member of an Affiliate of the Managing Member pursuant to the terms of the BRCO Operating Agreement upon the City’s receipt of its corporate documents, an EDS, and any other affidavits or certifications as requested by the City and as may be required by federal, state or local law in the award of public contracts as contemplated by Section 5.14.

“Plans and Specifications” shall mean initial construction documents containing a site plan and working drawings and specifications for the Project, as submitted to the City as the basis for obtaining a permit to start construction of the Project.

“Prior Expenditure(s)” shall have the meaning set forth in Section 4.05(a) hereof.

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

“Project Activities” shall mean Developer construction work performed as part of the Project, including, but not limited to, environmental remediation, demolition, site preparation, building construction and rehabilitation, construction contingency (to the extent used), all as listed in the MBE/WBE Budget attached hereto as Exhibit E-2.

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

[“Project Revenues” shall mean 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.]

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

“Redevelopment Area” shall have the meaning set forth in the Recitals hereof.

“Redevelopment Plan” shall have the meaning set forth in the Recitals hereof.

“Redevelopment Project Costs” shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

“Requisition Form” shall mean the document, in the form attached hereto as Exhibit G, to be delivered by Developer to DPD pursuant to Section 4.04 of this Agreement.

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

“Survey” shall mean a plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property, meeting the 2021 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, effective February 23, 2021, dated within 90 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Project and related improvements as required by the City or lender(s) providing Lender Financing).

“Term of the Agreement” shall mean the period of time commencing on the Closing Date and ending upon the expiration of the Compliance Period.

“TIF Adoption Ordinance” shall have the meaning set forth in the Recitals hereof.

“TIF Fund” shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

“TIF-Funded Improvements” shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. Exhibit C lists the TIF-Funded Improvements for the Project.

“TIF Ordinances” shall have the meaning set forth in the Recitals hereof.

“Title Company” shall mean Chicago Title Insurance Company.

“Title Policy” shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing Developer as the insured, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any, issued by the Title Company.

“WARN Act” shall mean the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

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

SECTION 3. THE PROJECT

3.01. The Project. The Developer shall, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17 hereof: (i) commence construction no later than 180 days after the approval of this Agreement by City Council; (ii) receive certificates of occupancy for the Theater and the residential component and certificates of occupancy for the Section 7.01(b) requirements for the retail space (2,500 square feet of space) and office/work space (50% of square footage) no later than October 31, 2025; and (iii) request and receive the Certificate no later than December 31, 2025 (the “Completion Date”).

3.02. Scope Drawings and Plans and Specifications. Developer has delivered the Scope Drawings and Plans and Specifications to DPD and DPD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DPD as a Change Order pursuant to Section 3.04 hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable federal, state and local laws, ordinances and regulations. Developer shall submit all necessary documents to the City’s Department of Buildings, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 Project Budget. Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than \$87,807,235. Developer hereby certifies to the City that (a) the City Funds, together with Developer Funds as described in Section 4.01 and Section 4.02 hereof, shall be sufficient to complete the Project; and (b) the Project Budget is true, correct and complete in all material respects. Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

3.04 Change Orders. Except as provided below in this Section 3.04, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Project must be submitted by Developer to DPD concurrently with the progress reports described in Section 3.07 hereof; provided, that any Change Order relating to any of the following must be submitted by Developer to DPD for DPD’s prior written approval: (a) a reduction in the gross or net square footage of the Project by five percent (5%) or more; (b) a change in the use of the Property to a use other than as described in Recital D to this Agreement; (c) a delay in the completion of the Project by six (6) months or more; or (d) Change Orders resulting in an aggregate increase to the Project Budget of ten percent (10%) or more. Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by Developer of DPD’s written approval (to the extent said City prior approval is required pursuant to the terms of this Agreement). The Construction Contract, and each contract between the General Contractor and

any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to Developer. Notwithstanding anything to the contrary in this Section 3.04, Change Orders other than those set forth above do not require DPD's prior written approval as set forth in this Section 3.04, but DPD shall be notified in writing of all such Change Orders within 10 business days after the execution of such Change Order and Developer, in connection with such notice, shall identify to DPD the source of funding therefor and shall be included in the Developer's Quarterly Progress Reports (as defined herein).

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

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

3.07 Progress Reports and Survey Updates. Developer shall provide DPD with written quarterly progress reports ("Quarterly Progress Reports") detailing the status of the Project, including duplicates of applicable support documentation verifying the disbursement and receipt of overall Project funds; and including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section 3.04). Developer shall provide three (3) copies of an updated Survey to DPD upon the request of DPD or any lender providing Lender Financing, reflecting improvements made to the Property.

3.08 Inspecting Agent or Architect. An independent agent or architect (other than Developer's architect) approved by DPD shall be selected to act as the inspecting agent or architect, at Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project hereunder.

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

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

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

3.12 Permit Fees. In connection with the Project, Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

SECTION 4. FINANCING

4.01. Total Project Cost and Sources of Funds. The cost of the Project is estimated to be \$87,807,235, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

PACE Financing	\$16,826,809
Lender Financing	\$7,000,000
Federal HTC Equity	\$10,528,978
AEG Equity (Property Contribution)	\$12,499,551
AEG Fitout Expenditure	\$8,000,000
Deferred Development Fee	\$5,951,897
City Funds*	\$27,000,000
Total Sources	\$87,807,235

*Developer will receive a bridge loan from a lender based on the amount of the pledged City Funds.

4.02. Developer Funds. Developer Equity, Senior Equity, Historic Tax Credits, and Lender Financing shall be used to pay all Project costs, including but not limited to Redevelopment Project costs and costs of TIF-Funded Improvements.

4.03. City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to Sections 4.03(b) and 4.05(d)), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost. City Funds shall not be paid to Developer hereunder prior to the issuance of the Certification of Expenditure as set forth in Section 4.03(b).

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to provide City funds from the sources and in the amounts described directly below with respect to the Project (the "City Funds") to pay for or reimburse Developer for the costs of the TIF-Funded Improvements:

<u>Sources of City Funds</u>	<u>Maximum Amount</u>
Available Incremental Taxes upon issuance of Certification of Expenditure	Up to \$27,000,000

If the TIF-eligible costs are less than \$27,000,000 at the time of Developer's written request for a Certification of Expenditure, the City Funds will be reduced on a dollar-for-dollar basis. If the total Project cost is not at least \$87,807,235 upon issuance of the Certificate, the amount of City Funds will be further reduced on a dollar-for-dollar basis, which amount may be drawn from the Letter of Credit. The maximum of \$27,000,000 to be derived from Available Incremental Taxes shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long as:

- (i) The amount of Available Incremental Taxes deposited into the TIF Fund shall be sufficient to pay for such costs;
- (ii) Developer provides evidence that Developer has incurred TIF-eligible costs for the Project, in an equal amount to, or greater than, the amount of City Funds to be paid pursuant to the Certification of Expenditure; and
- (iii) No Event of Default or condition exists for which the giving of notice or the passage of time, or both, would constitute an Event of Default exists under this Agreement.

Developer acknowledges and agrees that the City's obligation to pay for the TIF-Funded Improvements up to a maximum of \$27,000,000 is contingent upon the fulfillment of the conditions set forth in parts (i), (ii) and (iii) above. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by Developer pursuant to Section 4.01 hereof shall increase proportionately.

4.04. Requisition Form. Along with the Developer's written request for issuance of the Certification of Expenditure, Developer shall provide DPD with a Requisition Form, along with

the documentation described therein. Developer shall meet with DPD at the request of DPD to discuss the Requisition Form(s) previously delivered.

4.05. Treatment of Prior Expenditures and Subsequent Disbursements.

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

(b) Reserved.

(c) City Fee. Annually, the City may allocate an amount (the "City Fee") not to exceed five percent (5%) of the Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area, including the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

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

(e) Reserved.

4.06. Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to Section 4.03 hereof, or if the cost of completing the Project exceeds the Project Budget, Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and of completing the Project.

4.07. Preconditions of Disbursement. Prior to each disbursement of City Funds hereunder, Developer shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by Developer to DPD of any request for disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for disbursement, that:

(a) the total amount of the disbursement request represents the actual cost of the Acquisition or the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

(b) all amounts shown as previous payments on the current disbursement request have been paid to the parties entitled to such payment;

(c) Developer has approved all work and materials for the current disbursement request, and such work and materials conform to the Plans and Specifications;

(d) the representations and warranties contained in this Redevelopment Agreement are true and correct and Developer is in compliance with all covenants contained herein;

(e) Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens;

(f) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred; and

(g) the Project is In Balance. The Project shall be deemed to be in balance ("In Balance") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "Available Project Funds" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by Developer pursuant to this Agreement. Developer hereby agrees that, if the Project is not In Balance, Developer shall, within 10 days after a written request by the City, deposit with the escrow agent or will make available (in a manner acceptable to the City), cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The City shall have the right, in its discretion, to require Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by Developer. In addition, Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement as required by this Agreement.

4.08. Conditional Grant. The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The City Funds are subject to being reimbursed by the Developer to the City subject to the rights and limitations and as otherwise provided in Section 4.09, Section 15.02 and Section 15.03 hereof.

4.09. Return of City Funds Upon Refinance, Sale or Transfer. In the event of a refinance (other than conversion from a construction loan to permanent financing or refinance to a lower interest rate), sale or transfer (except for a Permitted Transfer) of the Project or any part thereof (each happening being a "Capital Event"), from the execution of this Agreement until the 5th

anniversary of the issuance of the Certificate, the Developer agrees to pay and remit to the City an amount equal to 100% of City Funds paid as of the date of the Capital Event.

4.10. Annual Recapture. From the 5th anniversary of the issuance of the Certificate until the end of the Compliance Period, the City will be entitled to receive, on a pari-passu basis, 50% of the Net Annual Cash Flow in excess of an internal rate of return on equity of 20%, generated from the operations and/or sale of the Property. Developer shall also cause this provision to be written into its agreements with its equity investors. The profit sharing obligations under this Section 4.10 shall terminate upon expiration of the Compliance Period.]

4.11. Certification of Expenditure. Developer shall submit a written request to DPD on or before December 1, 2024 for a certification of expenditure, including an executed Requisition Form, itemizing and documenting TIF-eligible costs that the Developer wants the City to reimburse from City Funds (the "Certification of Expenditure"). If any Certification of Expenditure issued by DPD pursuant to Section 7.01(a) certifies TIF-eligible costs incurred over \$27,000,000, the amount of City Funds paid to Developer shall not exceed \$27,000,000.

4.12. Letter of Credit. As a condition of the City's issuance of a Certification of Expenditure and payment of any City Funds, or at such other time approved by DPD, the Developer will post an unconditional, irrevocable Letter of Credit from an issuer acceptable to DPD in its sole discretion in the full amount of the City Funds to be paid to Developer pursuant to the Certification of Expenditure. The Letter of Credit will be renewed and maintained in the full amount of the City Funds until the issuance of the Certificate described in Section 7.01(b).

Prior to issuance, the Developer shall deliver the proposed Letter of Credit to DPD for DPD's approval, in its sole and absolute discretion, of its form and substance and of the identity of the issuer. DPD shall respond to the Letter of Credit delivery promptly by notifying the Developer that the City has either (a) approved the form of the Letter of Credit or (b) rejected the form of the Letter of Credit. If the City approves the form of the Letter of Credit, the Developer and the City shall coordinate an escrow arrangement whereby, on or before December 31, 2024, the City disburses the City Funds into escrow and the Letter of Credit is released from escrow to the City upon receipt of such City Funds. If the City rejects the Letter of Credit, it shall provide the Developer a written explanation regarding the Letter of Credit deficiencies and afford the Developer the ability to deliver a revised Letter of Credit acceptable to the City. If DPD rejects the form of the Letter of Credit provided by Developer, this shall result in an absolute and unrecoverable forfeiture of any unpaid City Funds. Further, if the City never accepts the Letter of Credit and never pays the City Funds, the Developer shall have the right to terminate the Agreement by written notice and thereafter the Agreement shall have no further force or effect without action by either Party.

If the City accepts a Letter of Credit from Developer in accordance with this Section 4.12, Developer must complete construction of the Project (including receipt of the Certificate) by the Completion Date. The Letter of Credit shall be released only if a Certificate of Completion is issued by December 31, 2025. If a Certificate of Completion is not issued by December 31, 2025, the City shall have the right to draw down on the Letter of Credit for the full amount of any City Funds paid to the Developer. Except as specifically set forth herein, nothing in this Section 4.12 shall be deemed to limit the City's remedies for Developer's failure to comply with the terms of this Agreement.

Notwithstanding any other provision in this Agreement, Developer acknowledges that the Redevelopment Area expires on December 31, 2024 and agrees that, unless the Developer provides and the City accepts a Letter of Credit from Developer in accordance with this Section 4.12, no City Funds will be paid to Developer.

SECTION 5. CONDITIONS PRECEDENT

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

5.01. Project Budget. Developer has submitted to DPD, and DPD has approved, the Project Budget in accordance with the provisions of Section 3.03 hereof.

5.02. Scope Drawings and Plans and Specifications. Developer has submitted to DPD, and DPD has approved, the Scope Drawings and Plans and Specifications for the Project in accordance with the provisions of Section 3.02 hereof.

5.03. Other Governmental Approvals. Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DPD.

5.04. Financing. Developer has furnished proof reasonably acceptable to the City that Developer has Equity and Lender Financing in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by Developer as needed and are sufficient (along with the Equity and other funding set forth in Section 4.01) to complete the Project.

Any liens against the Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City and executed on or prior to the Closing Date, which is to be recorded, at the expense of Developer, with the Office of the Recorder of Deeds of Cook County.

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

5.06. Evidence of Clean Title. Developer, at its own expense, has provided the City with searches as indicated in the chart below under Developer's name showing no liens against

Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens:

<u>Jurisdiction</u>	<u>Searches</u>
Secretary of State	UCC, Federal tax
Cook County Recorder	UCC, Fixtures, Federal tax, State tax, Memoranda of judgments
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

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

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

5.09. Opinion of Developer’s Counsel. On the Closing Date, Developer has furnished the City with an opinion of counsel in a form acceptable to the Corporation Counsel.

5.10. Evidence of Prior Expenditures. Developer has provided evidence satisfactory to DPD in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.05(a) hereof.

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

5.12. Documentation; Employment Plan. The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters in connection with the construction or rehabilitation work on the Project, including the reports described in Section 8.07.

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

5.14. Corporate Documents; Economic Disclosure Statement. The Developer has provided a copy of its Articles of Organization containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and all other states in which the Developer is qualified to do business; a

secretary's certificate in such form and substance as the Corporation Counsel may require; Operating Agreement of the limited liability company; and such other documentation as the City has requested.

Developer has provided to the City an EDS, dated as of the Closing Date, which is incorporated by reference, and Developer further will provide any other affidavits or certifications as may be required by federal, state or local law in the award of public contracts, all of which affidavits or certifications are incorporated by reference. Notwithstanding acceptance by the City of the EDS, failure of the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Developer and any other parties required by this Section 5.14 to complete an EDS must promptly update their EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate, including changes in ownership and changes in disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, and failure to promptly provide the updated EDS(s) to the City will constitute an event of default under this Agreement.

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

5.16. Lease. Developer has provided to the City copies of the Lease.

5.17. Material Agreements. The Developer shall provide to the City at least thirty (30) days prior to the Closing Date, copies of all material agreements and documents relating to the Project, including, without limitation, all deeds, easements, construction agreements, development and land use agreements.

SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01. Bid Requirement for General Contractor and Subcontractors.

(a) Except as set forth in Section 6.01(b) below, prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project, Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with, and having an office located in, the City of Chicago, and shall submit all bids received to DPD for its inspection. (i) For the TIF-Funded Improvements, Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner. If Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. (ii) For Project work other than the TIF-Funded Improvements, if Developer selects a General Contractor (or the General Contractor selects any subcontractor) who has not submitted the lowest

responsible bid, the difference between the lowest responsible bid and the higher bid selected shall be subtracted from the actual total Project costs for purposes of the calculation of the amount of City Funds to be contributed to the Project pursuant to Section 4.03(b) hereof. Developer shall submit copies of the Construction Contract to DPD in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof. Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

(b) If, prior to entering into an agreement with a General Contractor for construction of the Project, Developer does not solicit bids pursuant to Section 6.01(a) hereof, then the fee of the General Contractor proposed to be paid out of City Funds shall not exceed 5% of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of Section 6.01(a) shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

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

6.03. Performance and Payment Bonds. Prior to the commencement of any portion of the Project which includes work on the public way, Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in a form acceptable to the Corporation Counsel. The City shall be named as obligee or co-obligee on any such bonds.

6.04. Employment Opportunity. Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Section 10 hereof.

6.05. Other Provisions. In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement) Section 10.03 (MBE/WBE Requirements, as applicable), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof.

SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01. Issuance of Certification of Expenditure and Certificate.

(a) Certification of Expenditure. The Developer acknowledges and understands that the City will not issue a Certification of Expenditure and pay out the City Funds until the following conditions have been met:

- Evidence acceptable to DPD of the total TIF-eligible costs incurred by the Developer on or before December 1, 2024. If the TIF-eligible costs are less than \$27,000,000, the City Funds will be reduced on a dollar-for-dollar basis.
- Evidence acceptable to DPD that construction of the Project according to the Plans and Specifications is at least 50% complete by December 1, 2024, as measured by the progress reports provided by Developer's architect or the inspecting agent or architect being used by the lender providing Lender Financing.
- Receipt of a fully executed and effective Letter of Credit in the amount of the City Funds to be paid to Developer.

The City shall make its best efforts to respond to the Developer's written request for a Certification of Expenditure promptly by issuing either a Certification of Expenditure or a written statement detailing the ways in which the Developer's request does not provide sufficient documentation of the TIF-eligible costs of the Project and the measures which must be taken by the Developer in order to obtain the Certification of Expenditure. There will be no deemed approval by the City associated with the Developer's request for a Certification of Expenditure. Payment of the City Funds shall occur upon the issuance of the Certification of Expenditure, both of which shall occur no later than December 31, 2024.

(b) Certificate. Developer shall submit a written request for the Certificate no later than thirty (30) calendar days prior to the Completion Date. The Developer acknowledges and understands that the City will not issue a Certificate of Completion (the "Certificate") until the following conditions have been met:

- Evidence acceptable to DPD that the total Project cost is equal to, or in excess of \$87,807,235. If the final Project cost is less than \$87,807,235, the City Funds may be reduced on a dollar-for-dollar basis and may be drawn from the Letter of Credit.
- Receipt of certificates of occupancy, or other evidence acceptable to DPD, for the Theater and the residential component and certificates of occupancy for at least 2,500 square feet of retail space and at least 50% of the office/work square footage demonstrating that the Developer has complied with building permit requirements for the Project; provided that an architect's certificate which confirms construction of the improvements substantially in accordance with the building permits shall be acceptable evidence.
- The Theater rehabilitation work to be performed by the Developer shall be complete and handed over to the Tenant.
- The office/work space must be complete with at least 50 percent of the square footage leased and occupied.

- Theater tenant build out is complete and the Tenant has scheduled shows and made tickets available for sale.
- The retail space must be complete with at least 2,500 square feet of the space leased and occupied.
- The residential portion of the Property must be complete with at least 75 percent of the units leased and occupied (12 of 16).
- Receipt of a close-out letter from the City's Monitoring and Compliance unit showing full compliance with MBE/WBE, prevailing wage, and city residency requirements.
- Evidence acceptable to DPD that the Project has complied with the Chicago Sustainable Development Policy as outlined in Section 8.22.

The City shall make its best efforts to respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. There will be no deemed approval by the City associated with the Developer's request for a Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

7.02. Effect of Issuance of Certificate; Continuing Obligations. Upon the issuance of the Certificate, the City will certify that the terms of the Agreement specifically related to Developer's obligation to complete such respective activities have been satisfied. After the issuance of the Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of a Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at Sections 3.01, 8.02, 8.06, 8.14, 8.19, 8.24 and 8.26 as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate; provided, that upon the issuance of a Certificate, the covenants set forth in Section 3.01 and Section 8.02 shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon Developer or a permitted assignee of Developer who, pursuant to Section 18.14 of this Agreement, has contracted to take an assignment of Developer's rights under this Agreement and assume Developer's liabilities hereunder.

7.03. Failure to Complete. If Developer fails to complete the Project, then the City has, but shall not be limited to, any of the following rights and remedies

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto;

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the TIF-Funded Improvements that are public improvements exceeds the amount of City Funds available pursuant to Section 4.01, Developer shall reimburse the City for all reasonable costs and expenses incurred by the City in completing such TIF-Funded Improvements in excess of the available City Funds; and

(c) the right to seek reimbursement of the City Funds from Developer.

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

SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF DEVELOPER.

8.01. General. BRCO and NFP (each a "Developer Entity"), on behalf of itself, represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) The Developer Entity is duly organized in its state of organization, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) The Developer Entity has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) The execution, delivery and performance of this Agreement has been duly authorized by all necessary action, and does not and will not violate, as applicable, its articles of organization, operating, articles of incorporation, or by-laws, as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which it is now a party or by which it is now or may become bound;

(d) Unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, if the Developer Entity owns any portion of the Property, the Developer Entity shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that the Developer Entity is contesting in good faith pursuant to Section 8.15 hereof);

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

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

(g) The Developer Entity shall, as and when required by law, maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project, as applicable;

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

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

(j) Prior to the issuance of the Certificate, the Developer Entity shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of its business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to its financial condition;

(k) The Developer Entity has not incurred, and, prior to the issuance of a Certificate or as provided in Section 4.09 of this Agreement, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget; and

(l) The Developer Entity has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("City Contract") as an inducement for the City to enter into the Agreement or any City Contract with Developer in violation of Chapter 2-156-120 of the Municipal Code;

(m) Neither it nor any affiliate is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List,

the Unverified List, the Entity List and the Debarred List. For purposes of this subparagraph (m) only, the term “affiliate,” when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

(n) The Developer Entity understands that (1) the City Funds are limited obligations of the City, payable solely from moneys on deposit in the Fullerton/Milwaukee Redevelopment Project Area Account of the TIF Fund; (2) the City Funds do not constitute indebtedness of the City within the meaning of any constitutional or statutory provision or limitation; (3) Developer will have no right to compel the exercise of any taxing power of the City for payment of the City Funds; and (4) the City Funds do not and will not represent or constitute a general obligation or a pledge of the faith and credit of the City, the State of Illinois or any political subdivision thereof;

(o) The Developer Entity has sufficient knowledge and experience in financial and business matters, including municipal projects and revenues of the kind represented by the City Funds, and has been supplied with access to information to be able to evaluate the risks associated with the receipt of City Funds;

(p) The Developer Entity understands that there is no assurance as to the net amount or timing of receipt of City Funds, and that the amounts of City Funds actually received by such party may be less than the maximum amounts set forth in Section 4.03(b); and

(q) The Developer Entity understands it may not sell, assign, pledge or otherwise transfer its interest in this Agreement or City Funds in whole or in part except in accordance with the terms of Section 18.21 of this Agreement, and, to the fullest extent permitted by law, agrees to indemnify the City for any losses, claims, damages or expenses relating to or based upon any sale, assignment, pledge or transfer of City Funds in violation of this Agreement.

8.02. Covenant to Redevelop. Upon DPD’s approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and Developer’s receipt of all required building permits and governmental approvals, Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or each Developer Entity, as applicable. The covenants set forth in this Section 8.02 shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate with respect thereto.

8.03. Redevelopment Plan. Each Developer entity represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan, which is hereby incorporated by reference into this Agreement.

8.04. Use of City Funds. City Funds disbursed to Developer shall be used by Developer solely to pay for (or to reimburse Developer for its payment for) the TIF-Funded Improvements as provided in this Agreement.

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

8.06. Maintenance and Operating Covenants.

(a) Covenant to Maintain the Project Facilities. Developer hereby covenants and agrees to maintain the Theater portion of the Property in condition so that it may operate as a theater throughout the Compliance Period. Maintaining the Theater portion of the Property shall mean maintaining the Theater in a condition substantially consistent with its intended use and operation. Developer hereby covenants and agrees to maintain or cause to maintain the residential, retail and office/work portions of the Property throughout the Compliance Period in a condition substantially consistent with to its intended use and operation. A default under this Section 8.06(a) shall constitute an Event of Default if not cured within the applicable notice and cure period set forth in Section 15.03.

(b) Covenants to Maintain Theater Name and Marquee Sign. Developer hereby covenants and agrees to maintain, and/or cause Tenant to maintain, the name of the Theater on the Property as the “Congress Theater” throughout the Compliance Period (the “Naming Covenant”). Developer further covenants and agrees to maintain, and/or cause the Tenant to maintain, the Theater’s marquee sign, which exhibits the theater’s name, in substantially the same location, size, and shape as it currently stands throughout the Compliance Period (the “Marquee Covenant”). The Naming Covenant and the Marquee Covenant set forth in this Section 8.06 shall run with the land and be binding upon any transferee of the Property. A default under this Section 8.06(b) shall constitute an Event of Default if not cured within the applicable notice and cure period set forth in Section 15.03.

(c) Covenant to Operate. Developer (i) shall require the Tenant under the Lease to continuously operate or cause to be operated the Theater portion of the Property as a Theater during the Compliance Period as required by Section 8.26 below; (ii) shall continuously operate or cause

to be operated the residential, retail and office/work portions of the Project for such respective uses during the Compliance Period as required by Section 8.26 below; (iii) shall maintain the Theater and the retail portions of the Property open for business during the Compliance Period as required by Section 8.26 below; and (iv) shall maintain the affordable rental housing units in the Property in compliance with Section 8.24. A default under this Section 8.06(c) shall constitute an Event of Default if not cured within the applicable notice and cure period set forth in Section 15.03.

(d) Covenant Runs with the Land; Remedy. The covenants set forth in this Section 8.06 shall run with the land and be binding upon any transferee of the Theater Property and the Residential Property throughout the Term of this Agreement. A default under any of the covenants set forth in this Section 8.06 shall be subject to the rights of notice and cure set forth in Section 15.03. Upon expiration of the Term of this Agreement, if requested in writing by the Developer, the City shall deliver to Developer a release of this Agreement, in recordable form. In the event of a default under any of the covenants referenced in this Section 8.06, the City shall have the right to recapture the City Funds previously paid or disbursed to the Developer for the related Project if such default is not cured during the applicable cure period, if any, and to exercise any remedies described or referred to in this Agreement.

8.07. Employment Opportunity; Progress Reports. Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 10 hereof for the Project. Developer shall deliver to the City (i) written progress reports on a quarterly basis; duplicates of applicable support documentation verifying the disbursement and receipt of overall Project funds (“Quarterly Reports”); and (ii) monthly reports on MBE/WBE utilization, prevailing wage and City residency (based on expenditures to-date in relation to each of the Project Budget) (“Monthly Reports”) in compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. If any such reports indicate a shortfall in compliance, Developer shall also deliver a plan to DPD which shall outline, to DPD’s satisfaction, the manner in which Developer shall correct any shortfall. The City retains the right to review draw requests which must be accompanied by, among other things, invoices, cancelled checks, lien waivers, owner’s sworn statement, general contractor’s sworn statement and MBE/WBE subcontractor contract mounts and certification letters as a prerequisite for disbursement.

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

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

Prevailing Wage requirement is not met, the City will not release the Project-related City Funds and shall be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof.

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

8.11. Conflict of Interest. Pursuant to Section 5/11-74.4-4(n) of the Act, Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in Developer's business, the Property or any other property in the Redevelopment Area.

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

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

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

8.15. Non-Governmental Charges.

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

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

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

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

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

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

8.18. Recording and Filing. Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the date hereof in the conveyance and real property records of the county in which the Project is located. This Agreement shall be recorded prior to any mortgage made in connection with Lender Financing; provided, however, the City may agree to an alternate recording order in its sole discretion. Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.19. Real Estate Provisions.

(a) Governmental Charges.

(i) Payment of Governmental Charges. Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon Developer, the Property or the Project, or become due and payable, and which create or may create a lien upon Developer or all or any portion of the Property or the Project.

“Governmental Charge” shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to Developer, the Property or the Project including but not limited to real estate taxes.

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

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

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

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

8.20. Annual Report(s). Beginning in the first full calendar year following the of issuance of the Certificate and continuing throughout the Compliance Period, Developer shall submit to DPD an Annual Compliance Report for the Project on or before March 1st. By way of

example, if the Certificate is issued on June 1, 2024, Developer's first Annual Compliance Report would be due on or before March 1, 2025 and cover the period June 2, 2024 to December 31, 2024.

8.21. Inspector General. It is the duty of Developer and the duty of any bidder, proposer, contractor, subcontractor, and every applicant for certification of eligibility for a City contract or program, and all of Developer's officers, directors, agents, partners, and employees and any such bidder, proposer, contractor, subcontractor or such applicant: (a) to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code and (b) to cooperate with the Legislative Inspector General in any investigation undertaken pursuant to Chapter 2-55 of the Municipal Code. Developer represents that it understands and will abide by all provisions of Chapters 2-56 and 2-55 of the Municipal Code and that it will inform subcontractors of this provision and require their compliance.

8.22. Chicago Sustainable Development Policy. The Developer shall provide evidence acceptable to the City that it has complied with the Chicago Sustainable Development Policy for the Project within one (1) year after the date of the issuance of the Certificate. If a default occurs under the Chicago Sustainable Development Policy requirement, the City shall have the option in its sole discretion to reduce the amount of the City Funds by, or require repayment of City Funds already paid to the Developer of, Two-hundred and Fifty Thousand Dollars (\$250,000), including drawing on the Letter of Credit.

8.23. FOIA and Local Records Act Compliance.

(a) FOIA. The Developer acknowledges that the City is subject to the Illinois Freedom of Information Act, 5 ILCS 140/1 et. seq., as amended ("FOIA"). The FOIA requires the City to produce records (very broadly defined in FOIA) in response to a FOIA request in a very short period of time, unless the records requested are exempt under the FOIA. If the Developer receives a request from the City to produce records within the scope of FOIA, then the Developer covenants to comply with such request within 48 hours of the date of such request. Failure by the Developer to timely comply with such request shall be an Event of Default.

(b) Exempt Information. Documents that the Developer submits to the City under Section 8.21, (Annual Compliance Report) or otherwise during the Term of the Agreement that contain trade secrets and commercial or financial information may be exempt if disclosure would result in competitive harm. However, for documents submitted by the Developer to be treated as a trade secret or information that would cause competitive harm, FOIA requires that Developer mark any such documents as "proprietary, privileged or confidential." If the Developer marks a document as "proprietary, privileged and confidential", then DPD will evaluate whether such document may be withheld under the FOIA. DPD, in its discretion, will determine whether a document will be exempted from disclosure, and that determination is subject to review by the Illinois Attorney General's Office and/or the courts.

(c) Local Records Act. The Developer acknowledges that the City is subject to the Local Records Act, 50 ILCS 205/1 et. seq, as amended (the "Local Records Act"). The Local Records Act provides that public records may only be disposed of as provided in the Local Records

Act. If requested by the City, the Developer covenants to use its best efforts consistently applied to assist the City in its compliance with the Local Records Act

8.24. Affordable Housing Covenant.

(a) Developer agrees and covenants to the City that, prior to any foreclosure of the Property by a lender providing Lender Financing, the provisions of that certain Affordable Housing Covenant and Lien executed by Developer and DPD as of the date hereof shall govern the terms of Developer's obligation to provide affordable housing. Following foreclosure, if any, and from the date of such foreclosure through the Term of the Agreement, the following provisions shall govern the terms of the obligation to provide affordable housing under this Agreement:

(b) Upon the issuance of the Certificate, the Developer agrees as follows:

(i) The residential rental housing portion of the Project shall be operated and maintained solely as residential rental housing and as provided in (b)(ii) through and including (b)(v) below.

(ii) The Affordable Units shall be available for occupancy to and to be occupied solely by one or more Eligible Families, as defined below, meeting the Affordability Requirements, as defined below.

(iii) The Affordable Units shall consist of two (2) units affordable to Families with incomes not greater than 40% of area median income ("AMI") as defined in the Affordable Requirements Ordinance, Municipal Code § 2-44-085 (the "ARO"); three (3) units affordable to Families with incomes not greater than 50% of AMI as defined in the ARO; four (4) units affordable to Families with incomes not greater than 60% of AMI as defined in the ARO; three (3) units affordable to Families with incomes not greater than 70% of AMI as defined in the ARO; and two (2) units affordable to Families with incomes not greater than 80% of AMI as defined in the ARO (collectively, the "Affordability Requirements").

(iv) The Affordable Units shall be at least 75% leased and occupied during the Compliance Period as required by Section 8.26.

(v) The Affordable Units shall be in compliance with the provisions of the ARO and its related rules and regulations for the Term of the Agreement.

(c) All of the Affordable Units shall be available for occupancy and be occupied solely by one or more Eligible Families (as defined below) upon initial occupancy and all of the Affordable Units in the Project shall have monthly rents in accordance with the ARO. Family size for such units shall be determined in accordance with the ARO and the rules promulgated thereunder.

(d) As used in this Section 8.24, the following terms have the following meanings:

(i) “Family” shall mean one or more individuals, whether or not related by blood or marriage; and

(ii) “Eligible Families” shall mean Families whose annual income does not exceed forty percent (40%), fifty percent (50%), sixty percent (60%), seventy percent (70%), or eighty percent (80%) of the Chicago-area median income, adjusted for Family size, as such annual income and Chicago-area median income are determined from time to time pursuant to the ARO, and thereafter such income limits shall apply to this definition.

(e) The covenants set forth in this Section 8.24 shall run with the land and be binding upon any transferee.

(f) The City and Developer shall enter into a separate Affordable Housing Covenant and Lien to implement the provisions of this Section 8.24. The Parties agree that Developer must only maintain for Affordable Units for the Compliance Period and that the number of required Affordable Units after the expiration of the Compliance Period may be fewer due to the applicable requirements of the ARO.

8.25. Reserved.

8.26. Occupancy Covenant. Throughout the Compliance Period, the Developer hereby covenants and agrees to maintain the following:

- At least 50 percent of the retail space is to be leased and occupied in the first two years of the Compliance Period and, subject to customary tenant turnover and space reletting, at least 75 percent of the retail space is to be leased and occupied in years three through ten of the Compliance Period (the “Retail Covenant”);
- At least 50 percent of the office/commercial space is leased and occupied by local tenants in the first two years of the Compliance Period and, subject to customary tenant turnover and space reletting, at least 75 percent of the office/commercial space is leased and occupied by Local Tenants occupied in years three through ten of the Compliance Period (the “Office Covenant”);
- Subject to customary tenant turnover and space reletting, at least 75 percent of the 14 Affordable Units (11 of 14) are leased and occupied and the Affordable Units are in compliance with the ARO (the “Residential Covenant”);
- Developer shall contractually obligate Tenant through the Lease to book and host concerts and other events at the Theater continuously throughout the Compliance Period on a basis commensurate with Tenant’s customary business practices for comparable venues in comparable markets (e.g., Shrine Auditorium in Los Angeles, The Roadrunner in Boston, T5 in New York City, The Eastern in Atlanta and The Masonic Temple in Detroit). Notwithstanding the foregoing, Tenant’s obligation to operate in the Theater shall be subject to Force Majeure or shall not be required at any time during which Tenant or Developer is remodeling or refurbishing the Theater (the “Theater Covenant”).

The covenants set forth in this Section 8.26 shall run with the land and be binding upon any transferee during the Term of this Agreement.

8.27. Survival of Covenants. All warranties, representations, covenants and agreements of Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

9.01. General Covenants. The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

9.02. Survival of Covenants. All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01. Employment Opportunity. Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of Developer operating on the Property (collectively, with Developer, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon

race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 etseq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section 10.01, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

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

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

10.02. City Resident Construction Worker Employment Requirement. Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project performed by the Developer, 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 (50%) of the total worker hours worked by persons on the site of each Project respectively shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions..

“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.

Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project for construction work performed by the Developer. 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.

Developer, 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. Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.

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

Good faith efforts on the part of Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section 10.02 concerning the worker hours performed by actual Chicago residents.

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

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

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

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

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code (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 10.03, during the course of the Developer's Project work, at least the following percentages of the MBE/WBE Budget (as set forth in Exhibit E-2 hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least twenty-six percent (26%) by MBEs.
- (2) At least six percent (6%) by WBEs.

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

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

(d) Developer shall deliver monthly reports to the City's monitoring staff during the Developer's Project work 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 Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE

actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining Developer's compliance with this MBE/WBE commitment. Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Developer's Project work 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 Developer, on five Business Days' notice, to allow the City to review Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project performed by Developer.

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

(f) Any reduction or waiver of Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code, as applicable. If the Developer seeks to exclude the cost of any of the applicable Project Activities from the MBE/WBE Budget as provided in Exhibit E-2 of this Agreement, the Developer must provide DPD with a list of those Program Activities, and the estimated cost of such Program Activities the Developer wishes to be excluded. The City, in its sole discretion, will determine if said Program Activities are to be excluded from the MBE/WBE Budget. The Developer may not request a waiver for any Project Activity and/or its associated cost after the earlier of the execution of this Agreement or the start of construction of the Project.

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

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

SECTION 11. ENVIRONMENTAL MATTERS

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

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

SECTION 12. INSURANCE

Developer must provide and maintain, at Developer's own expense, or cause to be provided and maintained during the term of this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to execution and delivery of this Agreement.

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (Primary and Umbrella)

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

(iii) All Risk Property

All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(b) Construction. Prior to the construction of any portion of the Project, Developer will cause its architects, contractors, subcontractors, project managers and other parties constructing the Project to procure and maintain the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability

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

(ii) 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 (for a minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability (Primary and Umbrella)

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

(iv) Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Developer must provide cause to be provided with respect to the operations that Contractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy

must have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) All Risk /Builders Risk

When Developer undertakes any construction, including improvements, betterments, and/or repairs, Developer must provide or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the project. The City of Chicago is to be named as an additional insured and loss payee/mortgagee if applicable.

(vi) Professional Liability

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

(vii) Valuable Papers

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

(viii) Contractors Pollution Liability

When any remediation work is performed which may cause a pollution exposure, Developer must cause remediation contractor to provide Contractor Pollution Liability covering bodily injury, property damage and other losses caused by pollution conditions that arise from the contract scope of work 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 the 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.

(c) Post Construction:

(i) All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(d) Other Requirements:

Developer must furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 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. Developer must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to the Closing Date. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Developer is not a waiver by the City of any requirements for Developer to obtain and maintain the specified coverages. Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work and/or terminate agreement until proper evidence of insurance is provided.

The insurance must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Developer and Contractors.

Developer 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 Developer in no way limit Developer'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 Developer 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 Developer is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

Developer must require Contractor and subcontractors to provide the insurance required herein, or Developer may provide the coverages for Contractor and subcontractors. All Contractors and subcontractors are subject to the same insurance requirements of Developer unless otherwise specified in this Agreement.

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

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

SECTION 13. INDEMNIFICATION

13.01. General Indemnity. Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitees shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

(i) Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement, including, be not limited to, Section 8.27; or

(ii) Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or

(iii) the existence of any material misrepresentation or omission in this Agreement, any official statement, limited offering memorandum or private placement memorandum or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by Developer or any Affiliate Developer or any agents, employees, contractors or persons acting under the control or at the request of Developer or any Affiliate of Developer; or

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

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

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

14.01. Books and Records. Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost

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

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

SECTION 15. DEFAULT AND REMEDIES

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

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

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

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

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

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

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

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

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

(i) the dissolution of Developer or the death of any natural person who owns a material interest in Developer;

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against Developer or any natural person who owns a material interest in Developer, which is not dismissed within thirty (30) days, or the indictment of Developer or any natural person who owns a material interest in Developer, for any crime (other than a misdemeanor);

(k) prior to the issuance of the Certificate, the sale or transfer (other than a Permitted Transfer) of any part of the ownership interests of Developer, except to a wholly owned entity of the Developer, without the prior written consent of the City;

(l) The failure of Developer, or the failure by any party that is a Controlling Person (defined in Section 1-23-010 of the Municipal Code) with respect to Developer, to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code; such failure shall render this Agreement voidable or subject to termination, at the option of the Chief Procurement Officer, after notice and opportunity to cure;

(m) The failure of the Developer, or the failure by any party that is a Controlling Person (defined in Section 1-23-010 of the Municipal Code) with respect to Developer to continuously operate the Project in the manner described in this Agreement during the Compliance Period;

(n) the assignment or other direct or indirect transfer by the Developer of the Lease, other than to an Affiliate, without the prior written approval of the City (which shall be in the City's sole discretion);

(o) a Default (as defined in the Lease) by the Developer under the Lease that is not cured within the cure period, if any, granted under the Lease, or the Developer's execution of a material amendment without the prior written approval of the City under Section 18.01;

(p) in addition to the events of Default outlined herein, any violation of covenants or any violation of the Operating Covenants herein shall also be considered Events of Default for

which all applicable remedies, including termination of this Agreement, and the termination of the payments of City Funds shall apply; or

(q) The failure by Developer to meet a Closing Date with the City within 180 days of approval by City Council.

For purposes of Sections 15.01(i) and 15.01(l) hereof, a person with a material interest in Developer shall be one owning in excess of seven and a half percent (7.5%) of Developer's membership, partnership or ownership interests.

15.02. Remedies. Upon the occurrence of an Event of Default other than a breach of one or more of the covenants set forth in Section 8.26, the City may terminate this Agreement and any other agreements to which the City and Developer are or shall be parties, suspend disbursement of City Funds, seek reimbursement of any City Funds paid and/or draw down up to the entire balance of the Letter of Credit (if the Letter of Credit remains effective). The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to damages, injunctive relief or the specific performance of the agreements contained herein.

However, if an uncured Event of Default occurs on the Retail Covenant, Office Covenant, or Residential Covenant, the City may recapture up to a maximum of \$5 million of City Funds paid to Developer. For each year of the Compliance Period, the amount that can be recaptured for an uncured Event of Default on these covenants is reduced by 10%. For example, if an uncured Retail Covenant Event of Default occurs in Year 5 of the Compliance Period, then the amount that may be recaptured is reduced to \$2.5 million.

Similarly, if an uncured Event of Default occurs on the Theater Covenant, the City may recapture up to a maximum of \$10 million of the City Funds paid to the Developer. For each year of the Compliance Period, the amount that can be recaptured is reduced by 10%. For example, if an uncured Theater Covenant Event of Default occurs in Year 5 of the Compliance Period, then the amount that may be recaptured is reduced to \$5 million.

15.03. Curative Period.

(a) Except as provided in Section 15.03(b), in the event Developer shall fail to perform a monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event Developer shall fail to perform a non-monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, Developer shall not be deemed to have committed an Event of Default under this

Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

(b) Following an Event of Default in regard to the Retail Covenant, the Office Covenant or the Residential Covenant, the Developer shall be entitled to two non-consecutive one-year cure periods (each being a "Standard Cure Period") during the life of the Compliance Period. Following an Event of Default in regard to the Theater Covenant, the Developer shall be entitled to two one-year cure periods, counted separately from the Standard Cure Period, and these two cure periods may run consecutively or non-consecutively (each being a "Theater Cure Period"). However, there shall be no Standard Cure Period or Theater Cure Period with respect to any other event of default pursuant to Section 15.01 other than those cure rights set forth in Section 15.03(a). During a Standard Cure Period or Theater Cure Period, the City will not be required to make a payment of City Funds. Once cured, any default year by the Developer shall not count towards the required term of the Compliance Period or any other obligation of the Developer under this Agreement. If two defaults have occurred among the Retail Covenant, the Office Covenant or the Residential Covenant and have both been independently cured, then any subsequent default on those covenants shall constitute an Event of Default without notice or opportunity to cure. Likewise, if two defaults have occurred on the Theater Covenant and have both been independently cured, or if one default has occurred on the Theater Covenant and both Theater Cure Periods were used consecutively in order to cure the default, then any subsequent default on the Theater Covenant shall constitute an Event of Default without notice or opportunity to cure.

(c) Notwithstanding anything to the contrary contained herein, the City hereby agrees that any cure of a default made or tendered by HTC Investor or any Lender shall be deemed to be a cure by the Developer and shall be accepted or rejected on the same basis as if made or tendered by Developer.

SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit D hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a "Permitted Mortgage." It is hereby agreed by and between the City and Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a New Mortgage (other than a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.14 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to Developer for all purposes under this

Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.14 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of Developer which accrued prior to the time such party succeeded to the interest of Developer under this Agreement, in which case Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to Developer of a Certificate pursuant to Section 7 hereof, no New Mortgage shall be executed or financing undertaken with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DPD. After a Certificate has been issued pursuant to Section 7 hereof, if mortgagee or other permitted transferee executes a subordination agreement acceptable to the City in which it subordinates its mortgage lien to the covenants in this Agreement that run with the land, City consent is not required [City to clarify this situation; wouldn't a new mortgage already be subordinate?].

SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.

<p>If to the City:</p> <p>City of Chicago Department of Planning and Development 121 North LaSalle Street, Room 1000 Chicago, Illinois 60602 Attention: Commissioner</p>	<p>If to Developer:</p> <p>Baum Revision, LLC 1030 West Chicago Avenue Chicago, Illinois 60642 Attention: Scott Goldman</p> <p>With a copy to:</p> <p>Baum Revision, LLC 1030 West Chicago Avenue Chicago, Illinois 60642 Attention: General Counsel</p>
<p>With Copies To:</p> <p>City of Chicago Department of Law 121 North LaSalle Street, Room 600 Chicago, Illinois 60602 Attention: Finance and Economic Development Division</p>	<p>With Copies To:</p> <p>Dykema Gossett, PLLC 10 South Wacker Drive Suite 2300 Chicago, Illinois 60606 Attention: Andrew P. Scott</p>

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

SECTION 18. MISCELLANEOUS

18.01. Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement the Redevelopment Plan without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term “material” for the purpose of this Section 18.01 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental or construction obligations of Developer (including those set forth in Sections 10.02 and 10.03 hereof) by more than five percent (5%) or unless otherwise stated herein, materially changes the Project site or character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by Developer by more than ninety (90) days.

18.02. Entire Agreement. This Agreement (including each Exhibit attached hereto, which are hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

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

18.04. Further Assurances. Developer agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

18.05. Waiver. Waiver by the City or Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or Developer in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

18.06. Remedies Cumulative. Except with respect to those remedies which are specific to the Retail Covenant, Office Covenant, Residential Covenant and the Theater Covenant, the remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

18.07. Disclaimer. Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

18.08. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

18.09. Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

18.10. Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, or the Milwaukee Corridor ARO Pilot Area Ordinance, the TIF Ordinances shall prevail and control.

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

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

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

18.14. Assignment. Except for Permitted Assignments, Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Any successor in interest to Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Sections 8.19 Real Estate Provisions and 8.23 (Survival of Covenants) hereof, for the Term of the Agreement. Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.15. Binding Effect. This Agreement shall be binding upon Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of Developer, the City and their respective successors and permitted assigns (as provided herein). Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

18.16. Force Majeure. Neither the City nor Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, pandemic and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above. This provision shall also apply to Tenant's obligation to operate under the Theater Covenant as provided in Section 8.26.

18.17. Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if Developer is required to provide notice under the WARN Act,

Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where Developer has locations in the State. Failure by Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

18.18. Venue and Consent to Jurisdiction. If there is a lawsuit under this Agreement, each party hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

18.19. Costs and Expenses. In addition to and not in limitation of the other provisions of this Agreement, Developer agrees to pay upon demand the City's out-of-pocket expenses, including attorney's fees, incurred in connection with the enforcement of the provisions of this Agreement. This includes, subject to any limits under applicable law, attorney's fees and legal expenses, whether or not there is a lawsuit, including attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services. Developer also will pay any court costs, in addition to all other sums provided by law.

18.20. Business Relationships. Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a business relationship that creates a "Financial Interest" (as defined in Section 2-156-010 of the Municipal Code)(a "Financial Interest"), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a business relationship that creates a Financial Interest, 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 that creates a Financial Interest, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

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

BR CONGRESS OWNER, LLC

By: _____

Its: _____

CONGRESS THEATER NFP

By: _____

Its: _____

CITY OF CHICAGO

By: _____

Maurice D. Cox, Commissioner
Department of Planning and Development

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, _____, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of BR Congress Owner, LLC, an Illinois limited liability company (the “Developer”), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the [_____] of Developer, as his/her free and voluntary act and as the free and voluntary act of Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this ___ day of _____, 2023.

Notary Public

My Commission Expires _____

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, _____, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of Congress Theater NFP, a(n) _____ not for profit corporation (the "NFP"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the [_____] of the NFP, as his/her free and voluntary act and as the free and voluntary act of Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this ___ day of _____, 2023.

Notary Public

My Commission Expires _____

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

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

GIVEN under my hand and official seal this ___ day of _____, 2023.

Notary Public

My Commission Expires _____

(SEAL)

EXHIBIT A

REDEVELOPMENT AREA

[To be attached at Closing Date]

EXHIBIT B

PROPERTY

[Subject to Survey and Title Insurance]

Lots 14 to 18 both inclusive, (except the north 16 feet of said Lot 14) of James M. Allen's Subdivision of Lots 8 to 11 in the subdivision by John Gray Guardian, of 8 acres east of and adjoining the West 25.62 acres of that part north of Milwaukee Plank Road of the Northeast $\frac{1}{4}$ of Section 36, Township 40 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois, also

The Vacated Alley east of and adjoining Lots 14 to 18 both inclusive, (except the north 16 feet of said Lot 14) in James M. Allen's Subdivision aforesaid, also

Lots 12 to 15 both inclusive (except the east 3 feet of said Lot 15 and except that part lying in Milwaukee Avenue) in John Gray Guardian, of 8 acres east of and adjoining the West 25.62 acres of that part north of Milwaukee Plank Road of the Northeast $\frac{1}{4}$ of Section 36, Township 40 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois, also

The Vacated East and West Alley north of and adjoining Lots 12 to 15 both inclusive (except the east 3 feet of said Lot 15) in John Gray Guardian, of 8 acres east of and adjoining the West 25.62 acres of that part north of Milwaukee Plank Road of the Northeast $\frac{1}{4}$ of Section 36, Township 40 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois, also

Lots 11 to 15 both inclusive, (except the east 3 feet of each of said Lots) in Herman's Papsien's Subdivision of Lot 19 (except the north 60 feet thereof) in James M. Allen's Subdivision of Lots 8 to 11 in the subdivision by John Gray Guardian, of 8 acres east of and adjoining the West 25.62 acres of that part north of Milwaukee Plank Road of the Northeast $\frac{1}{4}$ of Section 36, Township 40 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

PINs: 13-36-221-017-0000, 13-36-221-031-0000 and 13-36-221-032-0000

Common addresses: 2117-39 North Rockwell Avenue and 2115-39 North Milwaukee Avenue, Chicago, Illinois 60647

EXHIBIT C
PROJECT
TIF-FUNDED IMPROVEMENTS*

Acquisition Costs	\$0
Hard Costs	
Base Building Hard Cost	\$43,000,000
Theatre Fitout	\$0
Retail/Commercial Tenant Improvements	\$1,945,500
Hard Cost Contingency	\$5,000,000
Total Hard Costs	\$49,945,500
Soft Costs/Fees	
Architecture & Engineering	\$1,500,000
Other Professional Services	\$0
Construction Management	\$0
Permits & Titles	\$0
Developer Fee	\$0
Soft Cost Contingency	\$0
Operating Reserve & Interest Carry	\$0
Total Soft Costs	\$1,500,000
 Total	 \$51,445,500

*Notwithstanding the total of TIF-Funded Improvements or the amount of TIF-eligible costs, the assistance to be provided by the City is limited to the amount described in Section 4.03.

EXHIBIT D

PERMITTED LIENS

1. Liens or encumbrances against the Property:

Those matters set forth as Schedule B title exceptions in the owner's title insurance policy issued by the Title Company as of the date hereof, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

2. Liens or encumbrances against Developer or the Project, other than liens against the Property, if any:

[To be completed by Developer's counsel, subject to City approval.]

EXHIBIT E-1

PROJECT BUDGET

Acquisition Costs	\$12,750,000
Hard Costs	
Base Building Hard Cost	\$43,000,000
Theatre Fitout	\$8,000,000
Retail/Commercial Tenant Improvements	\$1,945,500
Hard Cost Contingency	\$5,000,000
Total Hard Costs	<u>\$57,945,500</u>
Soft Costs/Fees	
Architecture & Engineering	\$1,500,000
Other Professional Services	\$2,152,339
Construction Management	\$720,000
Permits & Titles	\$537,500
Developer Fee	\$6,951,896
Soft Cost Contingency	\$250,000
Operating Reserve & Interest Carry	\$5,000,000
Total Soft Costs	<u>\$17,111,735</u>
Total	\$87,807,235

EXHIBIT E-2
MBE/WBE BUDGET

Hard Costs

Base Building Hard Cost	\$33,809,644
Theatre Fitout	\$0
Retail/Commercial Tenant Improvements	\$0
Hard Cost Contingency	\$0
Total Hard Costs	\$33,809,644

Soft Costs/Fees

Architecture & Engineering	\$0
Other Professional Services	\$0
Construction Management	\$0
Permits & Titles	\$0
Developer Fee	\$0
Soft Cost Contingency	\$0
Operating Reserve & Interest Carry	\$0
Total Soft Costs	\$0

Total **\$33,809,644**

Project MBE Total at 26% **\$8,790,507**
Project WBE Total at 6% **\$2,028,578**

EXHIBIT F

APPROVED PRIOR EXPENDITURES

[To be inserted at Closing Date or such other time acceptable to DPD]

EXHIBIT G

REQUISITION FORM

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The affiant, _____, _____ of BR Congress Owner, LLC, an Illinois limited liability company (the "Developer"), hereby certifies that with respect to that certain BR Congress Owner, LLC (Congress Theater) Redevelopment Agreement between Developer and the City of Chicago dated _____, ____ (the "Agreement"):

A. Expenditures for the Project, in the total amount of \$ _____, have been made:

B. This paragraph B sets forth and is a true and complete statement of all costs of TIF-Funded Improvements for the Project reimbursed by the City to date:

\$ _____

C. Developer requests reimbursement for the following cost of TIF-Funded Improvements:

\$ _____

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

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

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

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

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

[Developer]

By: _____

Name

Title: _____

Subscribed and sworn before me this ____ day of _____
_____.

My commission expires: _____

Agreed and accepted:

Name

Title: _____

City of Chicago

Department of Planning and Development