

This agreement was prepared by and after recording return to:  
Isabella E. Moreira, Esq.  
City of Chicago Department of Law  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

## OGDEN WASHTENAW A2 RESIDENTIAL REDEVELOPMENT AGREEMENT

This Ogden Washtenaw A2 Residential Redevelopment Agreement (this “Agreement”) is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and among the City of Chicago, an Illinois municipal corporation (the “City”), through its Department of Planning and Development (“DPD”) and Ogden Washtenaw A2 Residential LP, a Delaware limited partnership (the “Owner”), Ogden Commons JV LLC, a Delaware limited liability company and manager of the general partner of the Owner (“Manager of GP”), and Generations Housing Initiatives, an Illinois not for profit corporation (“Generations”). The Owner, Manager of GP and Generations may collectively be referred to hereinafter as the “Developer” or individually as a “Developer Party”.

### 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 May 17, 2000: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Midwest Redevelopment Project Area" (the "Plan Adoption Ordinance"); (2) "An Ordinance of the City of Chicago, Illinois Designating the Midwest Redevelopment Project Area 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 Midwest Redevelopment Project Area" (the "TIF Adoption Ordinance") (items(1)-(3) collectively referred to herein as the "TIF Ordinances"). The redevelopment project area referred to above (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Project: Owner will acquire a ground lease granted by the Chicago Housing Authority, as landlord, (the "Acquisition") of that certain property located within the Redevelopment Area, and commonly known as 1312 S Talman Avenue, Chicago, Illinois 60608, and legally described on Exhibit B hereto (the "Property"), and within the time frames set forth in Section 3.01 hereof, Developer shall commence and complete construction of a four-story residential building with seventy-five (75) residential units, including ten (10) studio units, fifty-two (52) one-bedroom units, ten (10) two-bedroom units, and three (3) three-bedroom units for market rate, low-income, very low-income and extremely low-income families, along with certain common areas, a welcome lobby, a fitness center and approximately fifty-six (56) outdoor parking spaces (the "Facility") thereon. The Facility and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on Exhibit C) are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: Developer will carry out the Project in accordance with this Agreement and the City of Chicago Midwest Tax Increment Financing Redevelopment Plan and Project (the "Redevelopment Plan") included in the Plan Adoption Ordinance adopted by the City Council on May 17, 2000 and published at pages 30779 through 30908 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, 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.

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## 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.

“Acquisition” 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.

“Annual Compliance Report” shall mean a signed report from Developer to the City (a) itemizing each of Developer's obligations under this 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 this Agreement, the agreements evidencing the Lender Financing, if any, or any related agreements. The obligations to be covered by the Annual Compliance Report shall include, but not be limited to, the following: (1) compliance with Section 8.05 hereof; (2) compliance with Job Creation (Section 8.06); (3) delivery of Financial Statements and unaudited financial statements (Section 8.13); (4) delivery of updated insurance certificates, if applicable (Section 8.14); (5) delivery of evidence of

payment of Non-Governmental Charges, if applicable (Section 8.15); (6) Compliance with the City's Sustainable Development Policy (Section 8.22); (7) Compliance with the Affordable Housing Covenant (Section 8.24); (8) delivery of a jobs report for each employee detailing the employee's status as a full-time or part-time employee or subcontractor, the ZIP code for each employee's primary residency, the employee's total employment tenure measured in months, the employee's wages above or below the "Living Wage" rate as defined for that year and progress toward completing the local hiring requirements; and (9) compliance with all other executory provisions of this Agreement.

"Available Incremental Taxes" shall mean an amount equal to the Incremental Taxes (as defined below) deposited in the Redevelopment Project Area Special Tax Allocation Fund (as defined below) as adjusted to reflect the amount of the City Fee described in Section 4.05(c) hereof.

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

"Certificate of Completion" shall mean the Certificate of Completion of Construction described in Section 7.01 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.

"City Contract" shall have the meaning set forth in Section 8.01(n) 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 described in Section 4.03(b) hereof.

"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.

"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 approved by DPD on or prior to the Closing Date, to be entered into between Developer and the General Contractor providing for construction of the Project.

"Contaminant" means any of those materials set forth in 415 ILCS 5/3.165, as amended from time to time, that are subject to regulation under any Environmental Law.

"Corporation Counsel" shall mean the City's Department of Law.

“Davis Bacon Act” shall mean the Davis Bacon Act (40 U.S.C. Section 3141 et seq.).

“DOH” shall mean the City’s Department of Housing.

“EDS” shall mean the City’s Economic Disclosure Statement and Affidavit, on the City’s then-current form.

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

“Environmental Law(s)” shall mean any Federal, state, or local law, statute, ordinance, code, rule, permit, plan, regulation, license, authorization, order, or injunction which pertains to health, safety, any Hazardous Substance or Other Regulated Material, or the environment (including, but not limited to, ground, air, water or noise pollution or contamination, and underground or above-ground tanks) and shall include, without limitation, the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 *et seq.*; the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901 *et seq.*, as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.* (“CERCLA”), as amended by the Superfund Amendments and Reauthorization Act of 1986 (“SARA”); the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*; the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*; the Gasoline Storage Act, 430 ILCS 15/0.01 *et seq.*; the Sewage and Waste Control Ordinance of the Metropolitan Water Reclamation District of Greater Chicago (“MWRD”); the Municipal Code of the City of Chicago; and any other local, state, or federal environmental statutes, and all rules, regulations, orders, and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

“Environmental Remediation Work” shall mean all investigation, sampling, monitoring, testing, reporting, removal (including, excavation, transportation and disposal), response, storage, remediation, treatment and other activities necessary to obtain a Final Comprehensive Residential No Further Remediation (NFR) Letter for the Property in accordance with the terms and conditions of the RAP Approval Letter (as defined below) for the Property issued by the Illinois Environmental Protection Agency (“IEPA”), the SRP Documents (as defined below), all requirements of the IEPA and all applicable federal, state, and local laws, ordinances, and regulations, including, without limitation, all applicable Environmental Laws.

“Equity” shall mean all funds available for the Project described in Section 4.01 other than City Funds (TIF), which amount may be increased pursuant to Section 4.06 (Cost Overruns) or Section 4.03(b).

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

“Escrow Agreement” shall mean the Escrow Agreement establishing a construction escrow, to be entered into as of the Closing Date hereof by the City, the Title Company (or an affiliate of the Title Company), Developer and Developer’s lender(s), if any, in a form acceptable to DPD and the Corporation Counsel.

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

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

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

“Final Comprehensive Residential NFR Letter” if applicable, shall mean a final comprehensive residential “No Further Remediation” letter issued by the IEPA approving the use of the Property for the construction, development and operation of the Project in accordance with the site plan approved by the City and the terms and conditions of the SRP Documents, as amended or supplemented from time to time. The Final Comprehensive Residential NFR Letter shall state that the Property meets remediation objectives for residential properties and the construction worker exposure route as set forth in 35 Ill. Adm. Code Part 742, but may be reasonably conditioned upon use and maintenance of engineered barriers and other institutional or engineering controls acceptable to the IEPA.

“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.

“General Partner Equity” shall mean the funds identified as “General Partner Equity” in Section 4.01 hereof.

“Hazardous Substances” has the meaning set forth in 415 ILCS 5/3.215, as amended from time to time.

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

“IEPA” shall mean the Illinois Environmental Protection Agency.

“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 “Indemnites” shall have the meanings set forth in Section 13.01 hereof.

“Lender Financing” shall mean the funds identified as “Lender Financing” in Section 4.01 hereof.

“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, 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.

“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.

“Other Regulated Material” means any Waste, Contaminant, material meeting 35 IAC Part 742.305, or any other material, not otherwise specifically listed or designated as a Hazardous Substance, that (a) is or contains: petroleum, including crude oil or any fraction thereof, motor fuel, jet fuel, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixtures of natural gas and such synthetic gas, asbestos, radon, any polychlorinated biphenyl, urea, formaldehyde foam insulation, explosive or radioactive material, materials known to contain per- and polyfluoroalkyl substances, i.e. PFAS, or (b) is a hazard to the environment or to the health or safety of persons.

“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.

“Phase I ESA” shall mean a Phase I environmental site assessment of the Property in accordance with ASTM E-1527-21.

“Phase II ESA” shall mean a Phase II environmental site assessment of the Property in accordance with ASTM E-1903-19.

“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 building permits for 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 Budget” shall mean the budget 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.

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

“RAP” shall mean the Remedial Action Plan document required by the IEPA in order to receive a final “No Further Remediation” letter.

“RAP Approval Letter” shall mean written approval from the IEPA of the RAP. The Parties agree that a single RAP Approval Letter may cover more than one Development Parcel or portions thereof.

“RACR” shall mean the Remedial Action Completion Report required by the IEPA in order to receive a “No Further Remediation” letter under the SRP (as defined below).

“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 Area Special Tax Allocation Fund” means the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

“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.

“Remediation Work” shall mean all investigation, sampling, monitoring, testing, reporting, removal, response, disposal, storage, remediation, treatment and other activities taken to obtain a No Further Remediation Letter in accordance with: the terms and conditions of the RAP Approval Letter issued by the IEPA, the SRP Documents (as defined below), all requirements of the IEPA, and all applicable federal, state, and local laws, ordinances, and regulations, including, without limitation, all applicable Environmental Laws.

“Senior Lender” shall mean Bank of America, N.A., a national association, and its successors and assigns, or such other lender as the Partnership may determine in its sole discretion.

“Senior Loan” shall mean that certain loan made by Senior Lender to the Partnership in connection with the Project in the amount stated in Section 4.01 hereto.

“SRP” if applicable, shall mean the IEPA’s Site Remediation Program as set forth in Title XVII of the Illinois Environmental Protection Act, 415 ILCS 5/58 et seq., and the regulations promulgated thereunder.

“SRP Documents” if applicable, means all documents submitted to the IEPA under the SRP, as amended or supplemented from time to time, including, without limitation, the Comprehensive Site Investigation and Remediation Objectives Report, the Remedial Action Plan, and the Remedial Action Completion Report and any and all related correspondence, data and other information prepared by either party pursuant to Section 11.



“Scope Drawings” shall mean preliminary construction documents containing a site plan and preliminary drawings and specifications for the Project, as amended and updated from time to time in accordance with this Agreement.

“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, or another standard acceptable to the City, dated within 75 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 Facility 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 on the date that is the 10-year anniversary of the issuance of the Certificate of Completion.

“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 \_\_\_\_\_.

“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.

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

“Waste” means those materials defined in the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. as waste and identified subcategories thereof, including but not limited to, construction or demolition debris, garbage, household waste, industrial process waste, landfill waste, landscape waste, municipal waste, pollution control waste, potentially infectious medical waste, refuse, or special waste.

“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. With respect to the Facility, Developer shall, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17 hereof: (i) commence construction no later than \_\_\_\_\_, 2024; and (ii) complete construction and conduct business operations therein no later than \_\_\_\_\_, 2025, subject to the provisions of Section 18.16 (Force Majeure).

3.02 Scope Drawings and Plans and Specifications. Developer has delivered the Scope Drawings and Plans and Specifications to the City and the City 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 Building Department, 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 \$38,537,943. Developer hereby certifies to the City that (a) the City Funds, together with Equity and other funds described in Section 4.01 hereof, shall be sufficient to complete the Project, subject to causes outside the reasonable control of Developer; 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 to the extent required pursuant to Section 3.04 hereof.

3.04 Change Orders. All Change Orders (and documentation substantiating the need and identifying the source of funding therefor) must be submitted by the Developer to DPD for DPD's prior written approval. The 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 the Developer of DPD's written approval, with such approval not to be unreasonably delayed to the extent required pursuant to the immediately preceding sentence. 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 the Developer.

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 or DOH 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 the City'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 DOH with written quarterly progress reports detailing the status of the Project, 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 DOH upon the request of DOH but no more than semi-annually.

3.08 Inspecting Agent or Architect. An independent agent or architect (other than Developer's architect) selected by one of the Existing Mortgage Holders or Permitted Mortgage holders providing Lender Financing (and approved by DPD) shall 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 pursuant to the Escrow Agreement.

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. DOH 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 \$38,537,943, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources in the approximate amounts:

<u>Sources:</u>	<u>Amount:</u>	<u>% of TDC:</u>
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1st Mortgage	\$ 4,000,000	10%
CHA Loan	\$ 9,950,000	26%
City Funds (TIF)	\$ 9,000,000	23%
Illinois Donations	\$ 469,063	1%
LIHTC Equity	\$ 14,547,090	38%
General Partner Equity	\$ 100	0%
Deferred Developer Fee	\$ 571,690	1%
<b>Total Sources</b>	<b>\$ 38,537,943</b>	<b>100%</b>

4.02 Developer Funds. Equity and/or Lender Financing may be used to pay any Project cost, including but not limited to Redevelopment Project Costs.

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 (i) are incurred by a Developer Party to be reimbursed and (ii) 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 and DOH evidencing such cost and its eligibility as a Redevelopment Project Cost. Generations shall be required to loan or contribute any City Funds paid to Generations to the Owner to reimburse the Owner for the costs of the TIF-Funded Improvements or directly pay for the costs of the TIF-Funded Improvements.

(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 (the "City Funds") to pay for or reimburse Developer for the costs of the TIF-Funded Improvements:

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Available Incremental Taxes	\$9,000,000

provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed \$9,000,000; and provided further, that the \$9,000,000 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 the Available Incremental Taxes deposited into the Redevelopment Project Area Special TIF Allocation Fund shall be sufficient to pay for such costs.

Developer acknowledges and agrees that the City's obligation to pay for TIF-Funded Improvements up to a maximum of \$9,000,000 is contingent upon the fulfillment of the conditions set forth in parts (i) above. In the event that such conditions are not fulfilled, the amount of Equity to be contributed and/or obtained by Developer pursuant to Section 4.01 hereof shall increase proportionately.

(c) Payment of City Funds. Subject to the conditions described in this Section 4.03, the

City shall pay the City Funds to the Developer in four installments as follows:

- (i) \$2,250,000 upon completion of 25% of the construction of the Project;
- (ii) \$2,250,000 upon completion of 50% of the construction of the Project;
- (ii) \$2,250,000 upon completion of 75% of the construction of the Project;
- (iv) \$2,250,000 upon completion of 100% of the construction of the Project and the issuance of the Certificate of Completion by DPD.

4.04 Construction Escrow. The City and the Developer hereby agree to enter into the Escrow Agreement. The first two disbursements of City Funds (except for the Prior Expenditures and the final disbursement of City Funds) shall be made through the funding of draw requests with respect thereto pursuant to the Escrow Agreement and this Agreement. In case of any conflict between the terms of this Agreement and the Escrow Agreement, the terms of this Agreement shall control. The City must receive copies of any draw requests and related documents submitted to the Title Company for disbursements under the Escrow Agreement.

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 Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity hereunder (the "Prior Expenditures"). 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, if any. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to Developer but shall reduce the amount of Equity required to be contributed by Developer pursuant to Section 4.01 hereof.

(b) [intentionally omitted.]

(c) City Fee. Annually, the City may allocate an amount not to exceed 10% 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 only, with transfers of costs and expenses from one line item to another, without the prior written consent of DPD or DOH, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 individually or \$100,000 in the aggregate, may be made without the prior written consent of DPD or DOH.

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 their sole discretion. The monitoring and compliance unit of DPD shall verify the percentage of construction completion. 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 in all material respects;

(d) the representations and warranties contained in this Redevelopment Agreement are true and correct in all material respects and Developer is in compliance in all material respects 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 in writing against the Property except for the Permitted Liens, or such liens have been bonded over by the Owner or insured by the Title Company;

(f) no Event of Default or, to the knowledge of Developer, 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 remains uncured; 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 Equity and other funds identified in Section 4.01; (iii) any other funds or financing obtained by Developer (including, without limitation, interim financing) and (iii) 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, defer developer fee or other amounts due the Developer or 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 in all material respects; 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, including but not limited to requirements set forth in the TIF Ordinances, this Agreement and/or the Escrow 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 as provided in Section 15.02 hereof.

4.09 [Reserved.]

## 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, a Project Budget in accordance with the provisions of Section 3.03 hereof.

5.02 Scope Drawings and Plans and Specifications. Developer has submitted to the City, and the City has approved, the Scope Drawings and Plans and Specifications 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 and DOH.

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. Any liens against the Property in existence at the Closing Date, other than the Permitted Liens, have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, 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. The City agrees that the Developer may collaterally assign their interests in this Agreement to any of its lenders if any such lenders require such collateral assignment.

5.05 Acquisition and 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 and DOH, on or prior to the Closing Date, documentation related to the purchase of the Property and certified copies of

all easements and encumbrances of record with respect to the Property not addressed, to DPD's and DOH'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 the Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens:

<b>Jurisdiction</b>	<b>Searches</b>
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 and DOH.

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 and DOH in their 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 and DOH for its most recent fiscal year, and audited or unaudited interim financial statements.

5.12 [Reserved.]

5.13 Environmental. Developer has complied with the environmental requirements set forth in Section 11 hereof.

5.14 Corporate Documents; Economic Disclosure Statement. 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 Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; operating agreement; and such other corporate 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/DOH, 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.

## SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. The Developer represents that prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project, Developer has solicited, or has caused the General Contractor to solicit, bids from qualified contractors eligible to do business with the City of Chicago and has submitted all bids received to DPD for its inspection and written approval.

(a) For the TIF-Funded Improvements, Developer has selected the General Contractor (or has caused the General Contractor to select the subcontractor) submitting the lowest responsible and responsive bid, who can complete the Project in a timely manner. If Developer selected a General Contractor (or the General Contractor selects any subcontractor) submitting other than lowest responsible and responsive bid, who can complete the Project in a timely manner, for the TIF-Funded Improvements, the difference between the lowest responsible and responsive bid, who can complete the Project in a timely manner and the bid selected may not be paid out of City Funds.

(b) For Project work other than the TIF-Funded Improvements, if Developer selected a General Contractor (or the General Contractor selects any subcontractor) who did not submit the lowest responsible and responsive bid, who can complete the Project in a timely manner, the difference between such 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 has submitted 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 represents that the General Contractor has not (and has caused the General Contractor to ensure that the subcontractors have not) begin work on the Project until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

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 commencement of construction of any portion of the Project, Developer shall require that the General Contractor be bonded for its performance and payment by sureties having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. 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 City. 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 DOH within five (5) business days of the execution thereof.

## SECTION 7. COMPLETION OF CONSTRUCTION

7.01 Certificate of Completion of Construction. (a) Upon satisfaction of the requirements set forth in this Section 7.01 for the Project, and upon the Developer's written request, DPD shall issue to the Developer a certificate of completion for the Project ("Certificate of Completion") in recordable form certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. Within forty-five (45) days after receipt of a written request by the Developer for a Certificate of Completion, the City shall provide the Developer with either the Certificate of Completion or a written statement indicating in adequate detail how the Developer has failed to complete the Project in compliance with this Agreement, or is otherwise in default, and what measures or acts are necessary, in the sole opinion of the City, for the Developer to take or perform in order to obtain the Certificate of Completion. If the City requires additional measures or acts to assure compliance, the Developer shall resubmit a written request for the Certificate of Completion upon compliance with the City's response. The Certificate of Completion shall be in recordable form, and shall, upon recording, constitute a conclusive determination of satisfaction and termination of the covenants in this Agreement with respect to the Developer's obligations to construct the Project. The Certificate of Completion shall not, however, constitute evidence that the Developer has complied with any laws relating to the construction of the Project, and shall not serve as any "guaranty" as to the quality of the construction. Nor shall the Certificate of Completion release the Developer from its obligation to comply with any on-going covenants as referenced in Section 8 of this Agreement.

(b) The Certificate of Completion will not be issued until the following requirements have been satisfied:

- (i) The Developer has obtained a Certificate of Occupancy from the City or other evidence reasonably acceptable to DPD and DOH that the Developer has complied with building permit requirements for all of the units;
- (ii) The Project, including all residential units, the community spaces and all related improvements, has been completed and has been constructed substantially according to the Plans and Specifications as evidenced by an affidavit provided by the Developer as evidenced by AIA Form G702;
- (iii) The Facility is open for operation and in the process of being marketed for lease to tenants pursuant to the requirements set forth in the affordability provisions of the regulatory agreement executed by the Developer in connection with the Low-Income Housing Tax Credits;
- (iv) There exists neither an Event of Default (after any applicable cure period) which is continuing nor a condition or event which, with the giving of notice passage of time or both, would constitute an Event of Default as evidenced by an affidavit provided by the Developer and accepted by DPD;
- (v) Developer has given the City written notification that construction of the Project, including all of the TIF-Funded Improvements, has been completed and has provided the City with an amount certified by final Owner's and Contractor's Sworn Statements, or other documentation requested by the City of 1) final total Project costs and 2) final TIF eligible costs; and 3) including, but not limited to any such further documentation as described in Section 14.01 hereof;
- (vi) Developer has provided evidence acceptable to the City and the Department of Assets, Information, and Services that it has complied with the environmental requirements set forth in Section 11 hereof;
- (vii) Developer has provided evidence acceptable to the City that it has complied with the Chicago Sustainable Development Policy for the Project that was in effect as of the Closing Date; and
- (viii) The City's Monitoring and Compliance unit has determined in writing that the Developer is in complete compliance with all City requirements (MBE/WBE, City residency and prevailing wage) as required in this Agreement.

7.02 Effect of Issuance of Certificate of Completion; Continuing Obligations. The Certificate of Completion relates only to the construction of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate of Completion, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the

Certificate of Completion 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 8.02, 8.19 and 8.24 as covenants that run with the leasehold estate 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 of Completion; provided, that upon the issuance of a Certificate of Completion, the covenants set forth in 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 of Completion 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 in accordance with the terms of this Agreement, 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) upon not less than thirty (30) days prior written notice to Developer 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 exceeds the amount of City Funds available pursuant to Section 4.03, 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.** The Owner, Manager of GP and Generations each represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, as follows.

(a) Owner is a Delaware limited partnership duly organized, validly existing, qualified to do business in its state of incorporation/organization and 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, (ii) Manager of GP is a Delaware limited liability company duly organized, validly existing, qualified to do business in its state of incorporation/organization and 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, and (iii) Generations is an Illinois not-for-profit corporation duly organized, 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) Each of the Owner, Manager of GP and Generations has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by each of the Owner, Manager of GP and Generations of this Agreement has been duly authorized by all necessary action, and does not and will not violate its Articles of Organization or Incorporation, operating agreement or partnership agreement as amended and supplemented, respectively, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which any Developer Party is now a party or by which any Developer Party is now or may become bound;

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, Owner shall hold a ground lease with the Chicago Housing Authority as landlord of the Property (and all improvements thereon) throughout the Term of the Agreement free and clear of all liens (except for the Permitted Liens, the items listed in Section 8.01(k), and non-governmental charges that Developer is contesting in good faith pursuant to Section 8.15 hereof);

(e) Each of the Owner, Manager of GP and Generations 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 each of the Owner, Manager of GP and Generations which would impair each of its ability to perform under this Agreement;

(g) Each of the Owner, Manager of GP and Generations has and shall 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;

(h) Each of the Owner, Manager of GP and Generations 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 any of the Owner, Manager of GP and Generations is a party or by which any of the Owner, Manager of GP and Generations 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 operations and financial condition of each Owner, Manager of GP and Generations as of the date of such statement, and as of the date hereof, there has been no material adverse change in the assets, liabilities, results of operations or financial condition of each Owner, Manager of GP and Generations since the date of its respective most recent Financial Statements;

(j) Each of the Owner, Manager of GP and Generations shall not do any of the following without the prior written consent of DPD (except as otherwise permitted by this Agreement): (1) Prior to the issuance of a Certificate of Completion, obtain any financing other

than the Lender Financing specified in Section 4.01 hereof, (2) after issuance of the Certificate of Completion, if mortgagee or other permitted transferee executes a subordination agreement in which it subordinates its mortgage lien to the covenants that run with the leasehold estate, require the City to pay any incremental taxes to any transferee other than the Developer or a wholly-owned affiliate thereof, (3) be a party to any merger, liquidation or consolidation; (4) 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; (5) enter into any transaction outside the ordinary course of each Developer Party's business that would materially adversely affect the ability of each Developer Party to complete the Project; (6) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity (other than in connection with the Lender Financing for the Project and except as specifically allowed pursuant to the terms of this Agreement); or (7) enter into any transaction that would cause a material and detrimental change to each Developer Party's financial condition;

(k) Each of the Owner, Manager of GP and Generations has not incurred, and, prior to the issuance of a Certificate of Completion, 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; the liens evidencing, governing, or securing the Housing Assistance Payments Contract into which the Owner, Manager of GP and Generations each intends to enter, and the liens evidencing, governing, or securing the Illinois Affordable Housing Tax Credits allocated to the Project by Illinois Housing Development Authority, which each Owner, Manager of GP and Generations intends to secure; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except the Lender Financing for the Project; and

(l) Each of the Owner, Manager of GP and Generations 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 Owner, Manager of GP, Generations nor any affiliate of each of the Owner, Manager of GP or Generations 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) Each of the Owner, Manager of GP and Generations understands that (i) the City Funds are limited obligations of the City, payable solely from moneys on deposit in the Redevelopment Project Area Special Tax Allocation Fund TIF Fund; (ii) the City Funds do not constitute indebtedness of the City within the meaning of any constitutional or statutory provision or limitation; (iii) Each of the Owner, Manager of GP and Generations will have no right to compel the exercise of any taxing power of the City for payment of the City Funds; and (iv) 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) Each of the Owner, Manager of GP and Generations, or each of its respective managers or members, have 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) Each of the Owner, Manager of GP and Generations understands that there is no assurance as to the amount or timing of receipt of City Funds, and that the amounts of City Funds actually received by each such party may be less than the maximum amounts set forth in Section 4.03(b) hereof;

(q) Each of the Owner, Manager of GP and Generations understands it may not sell, assign, pledge or otherwise transfer its interest in this Agreement or City Funds in whole or in part except as otherwise permitted by this Agreement or as approved in writing by the City in the City's sole discretion, 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; and

(r) Each of the Owner, Manager of GP and Generations acknowledges that with respect to City Funds, the City has no obligation to provide any continuing disclosure to the Electronic Municipal Market Access System maintained by the Municipal Securities Rulemaking Board, to any holder of a note relating to City Funds or any other person under Rule 15c2-12 of the Commission promulgated under the Securities Exchange Act of 1934 or otherwise, and shall have no liability with respect thereto.

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 Developer. The covenants set forth in this Section shall run with the leasehold estate and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate of Completion with respect thereto.

8.03 Redevelopment Plan. Developer 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. If the City pays any of the City Funds to Generations, Generations shall be required to loan or contribute the City Funds to the Owner, to reimburse the Owner for costs of TIF Funded Improvements or directly pay for the costs of the TIF Funded Improvements.

8.05 [Reserved.]

8.06 Job Creation.

The Developer estimates that the Project will result in the creation of (i) approximately four (4) full-time equivalent permanent jobs (the "Permanent Jobs"), and (ii) during the construction of the Project, approximately fifty-one (51) temporary full-time construction jobs (the "Construction Jobs," and collectively with the Permanent Jobs, the "Jobs"). Throughout the Term of the Agreement, the Developer shall submit certified employment reports disclosing the number of Jobs at the Project to DPD and DOH as a part of the Developer's submission of the Annual Compliance Report. Notwithstanding any other provision in this Agreement to the contrary, the failure to create the specified number of Jobs shall not constitute an Event of Default.

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. Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. Such reports shall be delivered to the City when the Project is 25%, 50%, 75% and 100% completed (based on the amount of expenditures incurred in relation to the Project Budget). 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.

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. Unless compliance with the Davis Bacon Act is required, 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.

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 or the Property.

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 Developer's fiscal year ended 2023 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. Either this Agreement shall be recorded prior to any mortgage made in connection with Lender Financing or, if this Agreement is not recorded first, a subordination agreement will have to be prepared, executed and recorded. 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, may create, or appear to 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. Developer's right to challenge real estate taxes applicable to the Property is limited as provided for in Section

8.19(c) below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. 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.

(c) Real Estate Taxes.

(i) Real Estate Tax Exemption. With respect to the Property or the Project, neither Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to Developer shall, during the Term of this Agreement, seek, or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970)) for any year that the Redevelopment Plan is in effect, except for participating in the Cook County Affordable Housing Special Assessment Program and the LIHTC Valuation Program or obtaining any exemption for which the City has provided prior consent.

(ii) Covenants Running with the Leasehold Estate. The parties agree that the restrictions contained in this Section 8.19(c) are covenants running with the leasehold estate and this Agreement shall be recorded by Developer as a memorandum thereof, at Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon Developer and its agents, representatives,

lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants shall be released when the Redevelopment Area is no longer in effect. Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Property or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.19(c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of Developer, its successors or assigns, may waive and terminate Developer's covenants and agreements set forth in this Section 8.19(c).

(d) Notification to the Cook County Assessor of Change in Use and Ownership. Prior to the Closing Date, and if applicable, Developer shall complete a letter of notification, in accordance with 35 ILCS 200/15-20, notifying the Cook County Assessor that there has been a change in use and ownership of the Property. On the Closing Date, Developer shall pay to the Title Company the cost of sending the notification to the Cook County Assessor via certified mail, return receipt requested. After delivery of the notification, Developer shall forward a copy of the return receipt to DPD, with a copy to the City's Corporation Counsel's office.

8.20 Annual Report(s). Beginning with the issuance of the Certificate of Completion and continuing throughout the Term of the Agreement, Developer shall submit to DPD the Annual Compliance Report within 60 days after the end of the calendar year to which the Annual Compliance Report relates.

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. Prior to the issuance of the Certificate of Completion, the Developer shall provide evidence acceptable to the City that it has complied with the Chicago Sustainable Development Policy for the Project that was in effect as of the Closing Date. If a default occurs under the Chicago Sustainable Development Policy requirements, the City shall have the right to reduce the amount of the City Funds by \$250,000.

#### 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 8.20 (Annual Report(s)) 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 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. Developer agrees and covenants to the City that the following provisions shall govern the terms of the obligation to provide affordable housing under this Agreement:

(a) The Facility shall contain seventy-five (75) apartments that shall be operated and maintained in accordance with this Section 8.24;

(b) Fifty-seven (57) of the units in the Facility shall be Affordable Housing Units and eighteen (18) of the units in the Facility may be market rate. All of the Affordable Housing Units are restricted solely to occupancy by Low-Income Families, Very Low-Income Families and Extremely Low-Income Families as defined in Section 8.24(e) hereof, and the rent for such Affordable Housing Units shall not exceed the rent restrictions set forth in Section 8.24(c) hereof.

(c) All of the Affordable Housing Units shall have monthly rents not in excess of thirty percent (30%) of the maximum allowable income for a Low-Income Family (with the applicable Family size for such units determined in accordance with the rules specified in Section 42(g)(2) of the Internal Revenue Code of 1986, as amended); provided, however, that for any unit occupied by a Family (as defined below) that no longer qualifies as a Low-Income Family due to an increase in such Family’s income since the date of its initial occupancy of such unit, the maximum monthly rent for such unit shall not exceed thirty percent (30%) of such Family’s monthly income.

(d) The Affordable Housing Units and remaining apartments shall have the following unit configuration with the following initial rents, provided, however, Developer shall, with the prior written approval of DOH, have the right to reconfigure the unit mix and distribution of income restriction set forth below:

Unit Type	Number	Market/ Affordable	Size-sf	Monthly Rent/sf*	Monthly Rent*
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Studios	3	Affordable at 30% AMI	414	\$2.20	\$911
Studios	1	Market	414	\$2.89	\$1,195
Studios	3	Market	443	\$2.70	\$1,195
Studios	3	Market	470	\$2.54	\$1,195
1 bed/1 bath	1	Affordable at 15% AMI	572	\$2.45	\$1,401
1 bed/1 bath	4	Affordable at 15% AMI	597	\$2.35	\$1,401
1 bed/1 bath	3	Affordable at 30% AMI	597	\$1.60	\$953
1 bed/1 bath	1	Affordable at 15% AMI	636	\$2.20	\$1,401
1 bed/1 bath	2	Affordable at 60% AMI	572	\$1.83	\$1,045
1 bed/1 bath	9	Affordable at 60% AMI	597	\$2.35	\$1,401
1 bed/1 bath	14	Affordable at 60% AMI	597	\$1.75	\$1,045
1 bed/1 bath	7	Affordable at 60% AMI	636	\$2.20	\$1,401
1 bed/1 bath	1	Manager	597	\$0.00	\$0
1 bed/1 bath	10	Market	636	\$2.12	\$1,350
2 bed/2 bath	4	Affordable at 60% AMI	953	\$1.69	\$1,607
2 bed/2 bath	3	Affordable at 60% AMI	953	\$1.30	\$1,241
2 bed/2 bath	1	Affordable at 60% AMI	1025	\$1.57	\$1,607
2 bed/2 bath	2	Affordable at 60% AMI	1025	\$1.21	\$1,241
3 bed/2 bath	3	Affordable at 60% AMI	1,173	\$1.74	\$2,039

\*The price of each rental unit includes hot water, water, trash removal and sewer charges. Tenant paid utilities include heating, cooling, cooking, and lighting.

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

(i) "Affordable Housing Units" shall mean the forty-two (42) units in the Project to be occupied by Low-Income, Very Low-Income Families and Extremely Low-Income Families financed with City Funds and required to comply with the terms of this Agreement.

(ii) "Family" shall mean one or more individuals, whether or not related by blood or marriage; and

(iii) "Low-Income Families" shall mean Families whose annual income does not exceed sixty percent (60%) 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 by the United States Department of Housing and Urban Development, and thereafter such income limits shall apply to this definition.

(iv) "Very Low-Income Families" shall mean Families whose annual income does not exceed fifty percent (50%) 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 by the United States Department of Housing and Urban Development, and thereafter such income limits shall apply to this definition.

(v) "Extremely Low-Income Families" shall mean Families whose annual income does not exceed thirty percent (30%) 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 by the United States Department of Housing and Urban Development, and thereafter such income limits shall apply to this definition.

(f) The covenants set forth in this Section 8.24 shall run with the leasehold estate and be binding upon any transferee for the Term of the Agreement.

(g) The City and Developer may enter into a separate agreement to implement the provisions of this Section 8.24.

8.25 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 of Completion) 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 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, 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 they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, 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.

Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

“Actual residents of the City” shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

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. 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 DOH 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.

Upon 5 Business Days prior written notice, 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 concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that 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 Project, 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 26 percent by MBEs.
- (2) At least 6 percent 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 Project) 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 quarterly reports to the City's monitoring staff during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, inter alia, the name and business address of each MBE and WBE solicited by 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 Project for at least five years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by 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.

(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.

(g) Prior to the commencement of the Project, 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. Each quarter, 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; (viii) duplicate copies of applicable support documentation verifying the disbursement and receipt of Available Project Funds and (ix) 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

11.01 Environmental Studies. The Developer hereby represents and warrants to the City that the 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. The Developer represents and warrants that, as of the Closing Date, it shall deliver true and complete copies of all final environmental studies, reports, field data, correspondence with any environmental agency and similar documents prepared by or for the Developer (or otherwise obtained by the Developer) regarding the environmental condition of the Property (collectively, "Environmental Documents") as of the date hereof to the City.

- (a) The Developer provided the City with a Phase I Environmental Site Assessment ("Phase I ESA") compliant with ASTM E-1527-13 for the Property prior to and conducted, or updated, within 180 days prior to the Closing Date and a Phase II Environmental Site Assessment ("Phase II ESA").
- (b) The Phase I ESA for the Property identified Recognized Environmental Conditions ("RECs") and the Developer performed a Phase II ESA to ascertain the presence of any environmental impacts that may be associated with the RECs.
- (c) The Phase II ESA identified contamination above residential remediation objectives as determined by Title 35 IAC Part 742, and the Developer must enroll the Property (or any portion thereof) in the SRP.
- (d) The Developer acknowledges and agrees that it may not commence construction on the Property until the IEPA issues a Remedial Action Plan Approval Letter ("RAP Approval Letter") for the Property.

- (e) Upon receipt of the RAP Approval Letter for the Property, the Developer covenants and agrees to complete all Remediation Work necessary to obtain a Final Comprehensive Residential NFR Letter for the Property using all reasonable means. The City shall have the right to review in advance and approve all documents submitted to the IEPA under the SRP, as amended or supplemented from time to time, including, without limitation, the SRP Documents and any changes thereto, and the Developer's estimate of the cost to perform the Remediation Work. The Developer shall bear sole responsibility for all costs of the Remediation Work necessary to obtain the Final Comprehensive residential NFR Letter, and the costs of any other investigative and cleanup costs associated with the Property. The Developer shall promptly transmit to the City copies of all Environmental Documents prepared or received with respect to the Remediation Work, including, without limitation, any written communications delivered to or received from the IEPA or other regulatory agencies. The Developer acknowledges and agrees to not request a certificate of occupancy for the Project from the City's Department of Buildings (DOB) until the IEPA has issued, and the Developer has recorded with the Cook County Clerk's Office and the City has approved, a Final Comprehensive residential NFR Letter for the Property (to the extent required), which approval shall not be unreasonably withheld. If the Developer fails to obtain the Final NFR Letter within six (6) months of the submission of the Remedial Action Completion Report to the IEPA, then the City shall have the right to record a notice of default of this RDA against the Property.
- (f) Upon the later to occur of (i) the Department's issuance of the Certificate of Completion and (ii) the Developer's recording with the Office of the Clerk for Cook County, Illinois, a Final Comprehensive residential NFR letter for the Property, the Developer shall submit a written request to the Department for the return of the Environmental Performance Deposit. The City will return the Environmental Performance Deposit within ninety (90) days of its receipt of such request
- (g) The Developer must abide by the terms and conditions of the Final Comprehensive residential NFR letter and must inform any subsequent owner and tenants of the Property to abide by the terms of the NFR letter.
- (h) The Developer shall remove any soil or soil gas not meeting the requirements of 35 IAC Section 742.305. Any underground storage tanks ("USTs") identified must be removed and closed in accordance with applicable regulations including Title 41 of IAC Part 175 and any identified leaking USTs must be properly addressed in accordance with 35 IAC Part 734.

11.02 Release and Indemnification. The Developer, on behalf of itself and its officers, directors, employees, successors, assigns and anyone claiming by, through or under them (collectively, the "Developer Parties"), hereby releases, relinquishes and forever discharges the City, its officers, agents and employees (collectively, the "Indemnified Parties"), from and against any and all Losses which the Developer or any of the Developer's Parties ever had, now have, or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, now existing or occurring after the Closing Date, based upon, arising out of or in any way connected with, directly or indirectly (i) any environmental contamination, pollution or hazards

associated with the Property or any improvements, facilities or operations located or formerly located thereon, including, without limitation, any release, emission, discharge, generation, transportation, treatment, storage or disposal of Hazardous Substances; (ii) the structural, physical or environmental condition of the Property, including, without limitation, the presence or suspected presence of Hazardous Substances or Other Regulated Material in, on, under or about the Property or the migration of Hazardous Substances or Other Regulated Material from or to other Property; (iii) any violation of, compliance with, enforcement of or liability under any Environmental Laws, including, without limitation, any governmental or regulatory body response costs, natural resource damages or Losses arising under CERCLA; and (iv) any investigation, cleanup, monitoring, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision or other third party in connection or associated with the Property or any improvements, facilities or operations located or formerly located thereon (collectively, "Released Claims"); provided, however, the foregoing release shall not apply to the extent such Losses are proximately caused by the gross negligence or willful misconduct of the City following the Closing Date. Furthermore, the Developer shall indemnify, defend (through an attorney reasonably acceptable to the City) and hold the Indemnified Parties harmless from and against any and all Losses which may be made or asserted by any third parties (including, without limitation, any of the Developer Parties) arising out of or in any way connected with, directly or indirectly, any of the Released Claims, except as provided in the immediately preceding sentence for the City's gross negligence or willful misconduct following the Closing Date. The Developer Parties waive their rights of contribution and subrogation against the Indemnified Parties.

11.03 Release Runs with the Property. The covenant of release in Section 11.02 above shall run with the Property, and shall be binding upon all successors and assigns of the Developer with respect to the Property, including, without limitation, each and every person, firm, corporation, limited liability company, trust or other entity owning, leasing, occupying, using or possessing any portion of the Property under or through the Developer following the date of the Deed. The Developer acknowledges and agrees that the foregoing covenant of release constitutes a material inducement to the City to enter into this RDA, and that, but for such release, the City would not have agreed to provide financial assistance to the Developer. It is expressly agreed and understood by and between the Developer and the City that, should any future obligation of the Developer or Developer Parties arise or be alleged to arise in connection with any environmental, soil or other condition of the Property, the Developer and any of the Developer Parties shall not assert that those obligations must be satisfied in whole or in part by the City, because Section 11.02 contains a full, complete and final release of all such claims, except as provided in such section for the City's gross negligence or willful misconduct following the Closing Date.

11.04 Survival. This Section 11 shall survive the Closing Date or any termination of this RDA (regardless of the reason for such termination).

## 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 for 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, Chicago, Illinois 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 closing. 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;

(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;

(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 of 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.

provided, however, that Developer shall have no obligation to an Indemnitee arising from the gross negligence, wanton or willful misconduct of that Indemnitee or that Indemnitee's breach of this Agreement or any other agreement relating hereto. 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 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;

(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 written 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 as of the date made;

(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 and the items listed in Section 8.01(k), 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 120 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 120 days after the commencement thereof;

(g) the entry of any judgment or order against Developer in excess of \$1,000,000 which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) failure of Developer to execute this Agreement within 180 days of approval by City Council of the ordinance authorizing the Redevelopment Plan;

(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 expiration of the Term of the Agreement, and except with respect to transfers of the Property to a mortgagee under a Permitted Mortgage or an Existing Mortgage, the sale or transfer of the Property or Project and/or all or substantially all of the ownership interests of Developer without the prior written consent of the City; or

(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.

For purposes of Section 15.01(i) hereof, a person with a material interest in Developer shall be one owning in excess of ten (10%) of Developer's membership interests.

15.02 Remedies. Upon the occurrence and during the continuation of an Event of Default, and if the default is not cured in the time period provided for in Sections 15.03 and 15.04 below, 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 and pursue and secure any available remedy against the Developer in any court of competent jurisdiction by any action or proceeding at law or in equity, including, but not limited to, damages, injunctive relief or the specific performance of the agreements contained herein.

15.03 Curative Period. 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. Any performance of Developer duties, obligations or rights (including cure rights) that is offered to the City by any partner of the Developer on behalf of the Developer will be evaluated and accepted or rejected by the City as though offered by Developer.

15.04 Limited Partner and/or Senior Lender Cure Period. In the event that an Event of Default occurs under this Agreement, and if, as a result thereof, the City intends to exercise any right or remedy available to it that could result in the termination of this Agreement, the cancellation, suspension, or reduction of any payment due from the City under this Agreement, the City shall send written notice of such intended exercise to the Limited Partner and Senior Lender, and provide them with an opportunity, at the Limited Partner's and/or Senior Lender's option, to cause the cure of such Event of Default within the cure periods set forth below, prior to exercising any remedies under the this Agreement.

(a) if the Event of Default is a monetary default, the Limited Partner and Senior Lender shall have ten (10) days after the Limited Partner's and Senior Lender's receipt of a notice of default, as described in the preceding paragraph, to cure, or cause the cure, of a monetary default under this Agreement; and

(b) if the Event of Default is of a non-monetary nature, the Limited Partner and Senior Lender shall, the Limited Partner and Senior Lender shall have thirty (30) days (or such longer period as is set forth in this Agreement) after the Limited Partner's and Senior Lender's receipt of notice of default, as described in this Section 15.04, to cure, or cause the cure, of a non-monetary default under the this Agreement; provided, however, that if such non-monetary default is not reasonably capable of being cured by the Limited Partner and/or Senior Lender within such 30-day period, such period shall be extended for such reasonable period of time as may be necessary for the Limited Partner and/or Senior Lender to cure such default, provided that the cure is commenced within the above cure period and the party seeking such cure continues to diligently pursue such cure and, if possession of the Project is necessary to effect such cure, the party seeking such cure must have instituted appropriate legal proceedings to obtain possession.

The City agrees to accept a cure by the Limited Partner and/or Senior Lender as if such cure were made by Owner.

## 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 leasehold estate.

(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 or other claim of the City against the Developer based on events 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. If the City placed a lien on the Project pursuant to Section 15.01 hereof in connection with an Event of Default of Developer or other claim of the City against the Developer based on events which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, the City shall release such lien upon written request to do so by such succeeding mortgagee. 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 leasehold estate.

(c) Prior to the issuance by the City to Developer of a Certificate of Completion pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DPD.

## 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><b>If to the City:</b></p> <p>City of Chicago  Department of Planning and Development  121 North LaSalle Street, Room 1000  Chicago, Illinois 60602  Attention: Commissioner</p>	<p><b>If to Developer:</b></p> <p>Ogden Commons JV LLC  350 W. Hubbard Street, Suite 500  Chicago, IL 60654  Attention: Steve Galler</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>Applegate &amp; Thorne-Thomsen, P.C.  425 S. Financial Place, Suite 1900  Chicago, IL 60605  Attention: Nick Brunick</p> <p>And:</p> <p>Bank of America, N.A.  Banc of America CDC Special Holding  Company, Inc.  MA5-100-04-11  100 Federal Street  Boston, MA 02110  Attention: Tax Credit Asset Management  (Ogden Commons)  Email: <a href="mailto:LIHTCreporting@bofa.com">LIHTCreporting@bofa.com</a></p> <p>And:</p> <p>Holland &amp; Knight LLP  10 St. James Avenue  Boston, MA 02116  Attention: Sara C. Heskett, Esq.  Telephone: 503-243-5860  Email: <a href="mailto:sara.heskett@hklaw.com">sara.heskett@hklaw.com</a></p> <p>And to:</p> <p>Bank of America, N.A.  Community Development Banking  Mail Code: IL4-110-10-01  Bank of America Tower Chicago  110 N. Wacker Drive  Chicago, Illinois 60606-1511  Attention: Stephanie Mack</p>

	<p>With copies to:</p> <p>Bank of America, N.A.  Mail Code: NC1-026-06-01  900 W. Trade Street, Suite 650  Charlotte, North Carolina 28255  Attention: CREB Loan Administration</p> <p>With copies to:</p> <p>Tiber Hudson LLC  1340 Smith Ave., Ste. 200  Baltimore, MD 21209  Attention: Matthew M. Grant, Esq.</p>
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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 except as otherwise set forth herein; 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, construction or job-creating obligations of Developer (including those set forth in Sections 10.02 and 10.03 hereof) by more than five percent (5%) or 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 is 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. 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, such 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, DOH, the Commissioner of DPD or the Commissioner of DOH, or any matter is to be to the City's, DPD's, DOH's, the Commissioner of DPD's or the Commissioner of DOH's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD, DOH, the Commissioner of DPD or the Commissioner of DOH in writing and in the reasonable discretion thereof. The Commissioner of DPD or Commissioner of DOH, or such other persons designated by the Mayor of the City, shall act for the City, DPD or DOH, as applicable, in making all approvals, consents and determinations of satisfaction, granting the Certificate of Completion or otherwise administering this Agreement

for the City.

18.14 Assignment. Developer may not sell, assign or otherwise transfer their interests in this Agreement in whole or in part without the prior written consent of the City (which consent shall not be unreasonably withheld, conditioned or delayed); provided however, that the Developer may collaterally assign their interest in this Agreement to any of its lenders identified to the City as of the Closing Date if any such lenders require such collateral assignment and any transfer of limited partnership interests in the Developer to an affiliate of such limited partner shall not require City's consent and shall not be considered an Event of Default. 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 8.25 (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, pandemic, 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, 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.

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 they have read such provision and understand 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.

18.21 Faircloth-to-RAD Conversion. The parties acknowledge that the Project is in HUD's Faircloth-to-RAD Program and has received the Rental Assistance Demonstration ("RAD") Conversion Conditional Approval ("RCCA") to convert the public housing units within the Project to RAD assisted units subject to certain conditions. In connection with the Faircloth-to-RAD conversion process, the City will be required and agrees to subordinate this Agreement to the RAD documents. Accordingly, the parties agree to work in good faith to amend the financing documents, (including without limitation, the ground lease, loan documents, regulatory agreements, and the Borrower's organizational documents) as necessary to reflect conversion to RAD assisted units and to enter into such other subordination and other agreements as are customarily required by HUD and CHA. For the avoidance of doubt, the public housing units within the Project are and will continue to be assisted under the CHA Mixed Finance Amendment and will not convert to RAD assistance unless the conditions under the RCCA are completed and approved by HUD and CHA.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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.

**DEVELOPER:**

OGDEN WASHTENAW A2 RESIDENTIAL LP,  
a Delaware limited partnership

By: OGDEN WASHTENAW A2 RESIDENTIAL LLC,  
an Illinois limited liability company,  
its general partner

By: OGDEN COMMONS JV LLC,  
a Delaware limited liability company,  
its Manager/Sole Member

By: HABITAT OGDEN COMMONS LLC,  
an Illinois limited liability company,  
its Manager/Member

By: HABITAT ACQUISITIONS COMPANY LLC,  
an Illinois limited liability company,  
its Manager/Member

By: THE HABITAT COMPANY LLC,  
an Illinois limited liability company,  
its Manager/Sole Member

By: \_\_\_\_\_  
Name: Matthew G. Fiascone  
Title: President

OGDEN COMMONS JV LLC,  
a Delaware limited liability company,

By: HABITAT OGDEN COMMONS LLC,  
an Illinois limited liability company,  
its Manager/Member

By: HABITAT ACQUISITIONS COMPANY LLC,  
an Illinois limited liability company,  
its Manager/Member

By: THE HABITAT COMPANY LLC,  
an Illinois limited liability company,  
its Manager/Sole Member

By: \_\_\_\_\_  
Name: Matthew G. Fiascone  
Title: President

GENERATIONS HOUSING INITIATIVES,  
an Illinois not-for-profit corporation

By: \_\_\_\_\_

Name: Cristina Vera

Title: Executive Director

**CITY OF CHICAGO:**

CITY OF CHICAGO, ILLINOIS,  
an Illinois municipal corporation

By: \_\_\_\_\_

Ciere Boatright

Commissioner

Department of Planning and Development





EXHIBIT A  
REDEVELOPMENT AREA  
[To be attached at Closing]



EXHIBIT B  
PROPERTY

**LEASEHOLD LEGAL DESCRIPTION:**

PARCEL A2

That part of Lots 11 through 20, both inclusive, and Lots 35 through 42, both inclusive, in Pope's Subdivision of Lots 11, 14, 15, 18, 19, 22, 23 and 26 in Block 1 of Cook and Anderson's Subdivision of the West Half of the Northeast Quarter of Section 24, Township 39 North, Range 13 East of the Third Principal Meridian, according to the plat thereof recorded March 5, 1869, in Book 168 page 111, and also the 16 foot Vacated Alley lying West of said Lots 11 through 20 and East of said Lots 35 through 42, between S. Washtenaw Avenue and South Talman Avenue, as vacated by Ordinance passed December 12, 1967, recorded December 26, 1967 as Document Number 20363509, more particularly described as follows;

Commencing at the Southeast corner of Lot 22 in said Pope's Subdivision; thence North 00 degrees 00 minutes 20 seconds West along the East line of said Subdivision 45.34 feet to the Point of Beginning; thence North 89 degrees 34 minutes 55 seconds West 212.05 feet; thence North 00 degrees 00 minutes 50 seconds East 159.21 feet; thence South 89 degrees 59 minutes 10 seconds East 16.00 feet; thence North 00 degrees 00 minutes 50 seconds East 17.79 feet; thence South 89 degrees 59 minutes 10 seconds East 83.53 feet; thence North 00 degrees 00 minutes 50 seconds East 55.94 feet to the South line of West 13th Street; thence South 89 degrees 28 minutes 33 seconds East along said South line 112.44 feet to the East line of said Lot 11; thence South 00 degrees 00 minutes 20 seconds East along the East line of said Subdivision 233.44 feet to the Point of Beginning, in Cook County, Illinois.

Said parcel containing 1.002 acres (43,635 square feet), more or less.

Said parcel affects PIN No 16-24-208-079

**COMMON ADDRESS:** 1312 S Talman Avenue  
Chicago, Illinois 60608

**PIN:** 16-24-208-079

EXHIBIT C

TIF-FUNDED IMPROVEMENTS

<b>TIF-FUNDED IMPROVEMENTS</b>			
<u>Category</u>	<u>Project Budget Amount*</u>	<u>% TIF Eligible***</u>	<u>TIF Eligible Cost**</u>
TIF-eligible Land Acquisition	\$ 75	100%	\$ -
Public Works or Site Improvements	\$ 2,397,403	50%	\$ -
Affordable Housing Unit Hard Costs	\$ 26,433,786	50-100%	\$10,044,839
Other Hard Construction Costs			\$ -
Environmental Remediation	\$ 447,800	100%	\$ 316,160
Eligible soft costs related to construction			
Eligible Professional Fees	\$ 2,557,976	50%	\$ -
Relocation	\$ -	100%	\$ -
Developer Fee	\$ 2,656,832	50%	\$ 1,589,266
Soft Interest (can only count if not counting affordable hard costs)		30%	\$ -
<b>Total</b>			<b><u><u>\$11,950,264</u></u></b>

\* With the exception of Leasehold Estate Acquisition, the Project Budget amounts are based upon 76% affordable units.

\*\* However, notwithstanding the total of TIF-Funded Improvements or the amount of TIF-eligible costs, the TIF assistance to be provided by the City is limited to the amount described in Section 4.03 and shall not exceed \$9,000,000 of the Project Budget. The Commissioner of DPD shall have authority to consent to adjustments between the line items set forth above and to consent to additional TIF-Funded Improvement redevelopment project costs within other categories authorized under the Act.

\*\*\* TIF Eligibility is further defined by the percentage of the building devoted to affordable units.

## 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:

None

3. Customary utility, cable, internet and similar service easements, access easements, construction easements and other easements and agreements in the ordinary course which do not have a material adverse effect on the Property.

## EXHIBIT E-1

## PROJECT BUDGET

<b>USES</b>	<b>AMOUNT</b>
<b>Leasehold Estate Acquisition</b>	<b>\$75</b>
Hard Costs:	
Construction	\$28,603,564
Const Contingency	\$1,209,425
<b>Total Hard Costs</b>	<b>\$29,812,989</b>
Soft Costs:	
Architect	\$1,363,700
Engineering	\$21,900
Loan Origination	\$275,000
Legal	\$710,000
Marketing	\$70,000
Construction Loan Interest	\$1,792,463
Environmental Reports	\$55,000
Reserves	\$787,313
Tax Credit Issuer Fees	\$176,250
Developer Fee	\$2,656,832
Other soft costs	\$816,421
<b>Total Soft Costs</b>	<b>\$8,724,879</b>
<b>TOTAL PROJECT COSTS</b>	<b>\$38,537,943</b>

EXHIBIT E-2

MBE/WBE BUDGET

Project Hard Costs \$ 26,433,786

Project Soft Costs (Arch., Eng,  
soil testing) \$ 1,473,600

Project MBE/WBE Total Budget \$ 27,907,386

**Project MBE Total at 26% \$ 7,255,920**

**Project WBE Total at 6% \$ 1,674,443**

EXHIBIT F  
APPROVED PRIOR EXPENDITURES

None.