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Karen A. Yarbrough
Cook County Recorder of Deeds
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This agreement was prepared by and after recording return to:
Saundra N. Fried, Esq.
City of Chicago Department of Law
121 North LaSalle Street, Room 600
Chicago, IL 60602

SWEDISH COVENANT HOSPITAL REDEVELOPMENT AGREEMENT

This Swedish Covenant Hospital Redevelopment Agreement (this "Agreement") is made as of this 1st day of October, 2014, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Swedish Covenant Hospital, an Illinois not-for-profit corporation (the "Developer" or "Hospital").

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 April 2, 2014: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Foster and California Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois

Designating the Foster and California Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act”; and (3) “An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Foster and California 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 Property.** The development site is located in the Redevelopment Area, as part of the Hospital campus which covers the area between Francisco Avenue to California Avenue and Foster Avenue south to Carmen Avenue. The main building is located at 5145 North California Avenue, and the Galter Medical Pavilion is located at 5140 North California Avenue on the Hospital campus, and legally described in Exhibit B (the “Property”).

E. **The Project:** The Developer, as owner of the Property, intends to rehabilitate the Women’s Health Center (the “WHC”) and renovate the Emergency Department (the “ER Department”) as follows:

(i) The Women’s Health Center phase of the Project (collectively, the “WHC Phase”) on the 4th floor of the Galter Medical Pavilion consists of (a) an approximately 16,783 square foot interior space which will be completely renovated to include a reception area, resource center with a library and reading room, areas for classrooms and conference rooms, 20 patient exam rooms (for mammograms, bone density testing, pulmonary testing, echocardiogram exams, pacemaker exams, biopsies and ultrasounds), a nuclear cardiology/stress lab, areas for electrocardiograms (EKGs) and blood draws, changing and gowned waiting rooms, 6 consultation rooms, and areas to support physicians in the WHC, (b) the acquisition of medical equipment for operating the WHC such as echocardiogram beds, Stryker equipment carts, echocardiogram and nuclear reading stations, VO₂ analyzer, nuclear testing camera, lockers, projectors, computers supporting testing, and other medical equipment, and (c) removing and replacing the approximately 20,000 square foot 7th floor roof and the rebuilding of approximately 1,688 square feet devoted to chillers.

(ii) The Emergency Department phase consists of an approximately 13,833 square foot renovation to the first floor of the east wing of the Hospital’s main building, including renovating 15 private large rooms for trauma cases, five dedicated psychiatric rooms, a 12-bay fast track private exam area, a new post-exam common waiting area, a private consultation room, a new pharmacy work station, a new physician/nurse work station as well as infrastructure improvements to elevators, rest rooms and mechanicals (collectively, the “ER Phase” and together with the WHC Phase, the “Facility”).

The Facility and related improvements as described above for the WHC Phase and the ER Phase (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 Project will create a substantial public benefit through its creation of not less than thirty (30) new FTE positions (as defined below) and retention of at least 2,280 positions (no fewer than 1,615 of which shall be FTE positions, with the remainder being PTE positions) during the Compliance Period. The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

F. **Redevelopment Plan:** The Project will be carried out in accordance with this Agreement and the City of Chicago Foster and California Tax Increment Financing Redevelopment

Area Project and Plan (the "Redevelopment Plan") included in the TIF Ordinances and published at pages 76735 to 76815 of the Journal of the Proceedings of the City Council.

G. **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.

In addition, the City may, in its discretion, issue tax increment allocation bonds ("TIF Bonds") secured by Incremental Taxes pursuant to a TIF bond ordinance (the "TIF Bond Ordinance"), the proceeds of which (the "TIF Bond Proceeds") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes in order to reimburse the City for the costs of TIF-Funded Improvements.

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

SECTION 1. RECITALS, HEADINGS AND EXHIBITS

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

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

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 the RDA during the preceding calendar year, (b) certifying Developer’s compliance or noncompliance with such obligations, (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance and (d) certifying that Developer is not in default with respect to any provision of the RDA, the agreements evidencing the Lender Financing, if any, or any related agreements; provided that the obligations covered by the Annual Compliance Report shall include the following: (1) compliance with the Operating Covenant (**Section 8.06**) and the Jobs Covenant (**Section 8.06**); (2) delivery of Financial Statements and unaudited financial statements (**Section 8.13**); (3) delivery of updated insurance certificates, if applicable (**Section 8.14**); (4) delivery of evidence of payment of Non-Governmental Charges, if applicable (**Section 8.15**); and (5) compliance with all other executory provisions of the RDA.

“Available Incremental Taxes” shall mean for each payment, an amount equal to the Incremental Taxes on deposit in the TIF Fund as of December 31st of the calendar year prior to the year in which the Requisition Form for such payment is received by the City, and which is available for the financing or payment of Redevelopment Project Costs, after deducting (i) all Incremental Taxes from a New Project pledged or allocated to assist the New Project, (ii) all Incremental Taxes previously allocated or pledged by the City before the date of this Agreement including, without limitation, Incremental Taxes allocated or pledged for the Prior TIF Financings, and (iii) debt service payments with respect to the Bonds, if any.

“Available Project Funds” shall mean: (1) the undisbursed City Funds; (2) the undisbursed Lender Financing, if any; (3) the undisbursed Equity and (4) any other amounts deposited by Developer pursuant to this Agreement.

“Bond(s)” shall have the meaning set forth for such term in **Section 8.05** hereof.

“Bond Ordinance” shall mean the City ordinance authorizing the issuance of Bonds.

“Bundle” shall have the meaning set forth for such term in **Section 8.01(n)** hereof.

“Business Relationship” shall have the meaning set forth for such term in Section 2-156-080 of the Municipal Code.

“Certified Final Project Cost” shall mean the actual cost of the Project as certified by the Developer as set forth in **Section 7.01(b)**.

“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(l)** hereof.

“City Council” shall have the meaning set forth in the Recitals 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, which such date shall not be more than 180 days after the date of the City Council adoption of the ordinance authorizing DPD to enter into this Agreement.

“Compliance Period” shall mean the longer of (1) if the Developer does not deliver an Extension Notice, a period beginning on the date the Final Certificate is issued and ending on the 10th anniversary of the date the Final Certificate is issued, and (2) if the Developer delivers an Extension Notice and cures the applicable Event of Default during the one-year period in which the Extension notice was delivered, a period beginning on the date the Final Certificate is issued and ending on the 11th anniversary of the date the Final Certificate is issued.

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

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

“Contribution” shall have the meaning set forth in **Section 8.01(n)** hereof.

“Construction Contract” shall mean that certain contract, substantially in the form attached hereto as **Exhibit E**, to be entered into between Developer and the General Contractor providing for construction of the Project.

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

“Developer” shall have the meaning set forth in the Recitals, together with its permitted successors and/or assigns.

“Domestic Partner” shall have the meaning set forth in **Section 8.01(n)** hereof.

“DPD” shall mean the City's Department of Planning and Development, or any successor department thereto.

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

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

“Environmental Laws” shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and

hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code.

"Equity" shall mean funds of Developer (other than funds derived from Lender Financing) irrevocably available for the Project, in the amount set forth in **Section 4.01** hereof, which amount may be increased pursuant to **Section 4.06** (Cost Overruns) or **Section 4.03(b)(4)**.

"ER Department" shall have the meaning set forth in the Recitals hereof.

"ER Phase" shall have the meaning set forth in the Recitals hereof.

"Escrow" shall mean the project fund established pursuant to the Master Indenture.

"Extension Notice" shall have the meaning set forth in **Section 8.06** hereof.

"Event of Default" shall have the meaning set forth in **Section 15** hereof.

"Facility" shall have the meaning set forth in the Recitals hereof.

"Final Certificate" shall mean the Final Certificate of Completion of Construction described in **Section 7.01(b)** hereof.

"Final ER Phase Project Cost" shall have the meaning set forth in **Section 7.01(b)** hereof."

"Final Project Cost" shall have the meaning set forth in **Section 7.01(b)** hereof.

"Final WHC Phase Project Cost" shall have the meaning set forth in **Section 7.01(a)** hereof.

"Financial Interest" shall have the meaning set forth for such term in Section 2-125-010 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.

"FOIA" shall have the meaning set forth in **Section 8.23** hereof.

"Full-Time Equivalent Employee" or **"FTE"** shall mean an employee of the Developer at the Project if such employee is employed at the Project during the applicable month (excluding persons engaged as or employed by independent contractors, third party service providers or consultants) and works a minimum of 64 hours per two-week pay period of Developer on a regularly scheduled basis.

“General Contractor” shall mean the general contractors set forth in and/or hired pursuant to **Section 6.01** hereof.

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

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

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

“Incremental Taxes” shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof. Incremental Taxes shall also include amounts transferred into the TIF Fund from the special tax allocation fund for the contiguous Lincoln Avenue Redevelopment Area or the Western Avenue North Redevelopment Area pursuant to Section 5/11-74.4-4(q) of the Act.

“Incremental Taxes From a New Project” shall mean with respect to the Redevelopment Area, the Lincoln Avenue Redevelopment Area and the Western Avenue North Redevelopment Area, (a) individually, Incremental Taxes generated by the equalized assessed value (“**EAV**”) of the parcel(s) comprising a New Project over and above the initial EAV of such affected parcel(s) as certified by the Cook County Clerk in the certified initial EAV of all tax parcels in the Redevelopment Area, the Lincoln Avenue Redevelopment Area or the Western Avenue North Redevelopment Area, as the case may be, and (b) collectively, the sum of Incremental Taxes From a New Project for all New Projects, if there are multiple New Projects.

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

“Initial Certificate” shall mean the Initial Certificate of Completion of Construction described in **Section 7.01(a)** hereof.

“Installment” shall have the meaning set forth in **Section 4.03(c)** hereof.

“Jobs and Occupancy Certificate” shall mean the Jobs and Occupancy Certificate attached hereto as **Exhibit D**.

“Jobs Covenant” shall have the meaning set forth in **Section 8.06** hereof.

“Laws” shall mean all applicable federal, state, local or other laws (including common law), statutes, codes, ordinances, rules, regulations or other requirements, now or hereafter in effect, as amended or supplemented from time to time, and any applicable judicial or administrative interpretation thereof, including any applicable judicial or administrative orders, consent decrees or judgments, including, without limitation, Sections 7-28 and 11-4 of the Municipal Code relating to waste disposal.

“**LEED**” shall mean the Leadership in Energy and Environmental Design with respect to the Green Building Rating System maintained by the U.S. Green Building Council and applicable to commercial interiors.

“**Lender**” shall mean the Master Trustee and/or any other provider of Lender Financing.

“**Lender Financing**” shall mean proceeds of bonds issued or funds otherwise borrowed by the Developer from Lenders and irrevocably available to pay Project costs, in the amount set forth in **Section 4.01** hereof.

“**Lincoln Avenue Redevelopment Area**” shall mean the redevelopment project area established pursuant to ordinances adopted on November 3, 1999 in connection with the adoption of the Lincoln Avenue redevelopment plan.

“**Living Wages**” shall mean a base wage as that term is defined and calculated in Section 2-92-610 of the City of Chicago Municipal Code.

“**Local Records Act**” shall have the meaning set forth in **Section 8.23** hereof.

“**Master Indenture**” shall mean the Master Trust Indenture dated as of May 15, 1993 and restated as of June 1, 2008 and as amended and supplemented from time to time, between the Developer and the Master Trustee.

“**Master Trustee**” shall mean U.S. Bank National Association, as master trustee under the Master Indenture.

“**Maximum Payment Amount**” shall have the meaning set forth in **Section 4.03(c)** hereof.

“**Maximum Per Phase TIF Assistance**” shall have the meaning set forth in **Section 4.03(b)(1)** 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 H-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.

“**New Project**” shall mean a development project for which the related redevelopment agreement is recorded on or after the date of this Agreement and either (a) will receive assistance in the form of Incremental Taxes, or (b) is within the Lincoln Avenue Redevelopment Area or the Western Avenue North Redevelopment Area; provided, however, that “New Project” shall not

include any development project that is or will be exempt from the payment of ad valorem property taxes.

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

“Operating Covenant” shall have the meaning set forth in **Section 8.06** hereof.

“Other Contract” shall have the meaning set forth in **Section 8.01(n)** hereof.

“Payment Trigger” shall have the meaning set forth in **Section 4.03(c)** hereof.

“Part Time Employee” or **“PTE”** shall mean an employee of the Developer at the Project if such employee is employed at the Project during the applicable month (excluding persons engaged as or employed by independent contractors, third party service providers or consultants) and works between 48 to 63 hours per two-week pay period of Developer on a regularly scheduled basis.

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

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

“Planned Development” shall mean the Planned Development Number 92, dated December 8, 2010, as amended on April 15, 2011, and as further amended from time to time.

“Plans and Specifications” shall mean construction documents, and any amendments thereto, containing a site plan and working drawings and specifications for either the WHC Phase or the ER Phase, as the case may be, as submitted to the City as the basis for obtaining building permits for such portion of the Project.

“Political fundraising committee” shall have the meaning set forth in **Section 8.05(n)** hereof.

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

“Prior TIF Financings” shall mean, collectively, the following:

a. Pursuant to a bond ordinance adopted by the City Council on December 13, 2006 the City issued \$356,005,000 in aggregate principal amount of General Obligation Bonds Series 2007A-K (Modern Schools Across Chicago Project), for which ad valorem taxes levied for repayment will be abated with certain taxes generated by parcels within the Lincoln Avenue Redevelopment Area;

b. Pursuant to a note ordinance adopted by the City Council on March 27, 2007, the City issued its Tax Increment Allocation Revenue Note (Lincoln Village Shopping Center Project), Taxable Series 2002A, dated June 17, 2002, in the amount of \$4,950,000 BGP Lincoln Village, L.L.C., secured by the pledge of certain taxes generated by parcels within the Lincoln Avenue Redevelopment Area for the payment of redevelopment project costs in connection with the Lincoln Village Shopping Center redevelopment project;

c. Pursuant to a note ordinance adopted by the City Council on November 3, 2004, the City issued its Tax Increment Allocation Revenue Note (Western Avenue North Redevelopment Project Area), Series 2009, dated October 5, 2009, in the amount of \$3,000,000 to 4800 Damen LLC, secured by the pledge of certain taxes generated by parcels within the Western Avenue North Redevelopment Area for the payment of redevelopment project costs in connection with the 4800 Damen LLC redevelopment project;

d. Pursuant to an ordinance adopted by the City Council on July 27, 2005, the City entered into a redevelopment agreement with JJJ Properties, Inc., dated as of February 1, 2010, whereby the City pledged certain taxes generated by parcels within the Lincoln Avenue Redevelopment Area for the payment of redevelopment project costs in connection with the JJJ Properties, Inc. redevelopment project in an amount not to exceed \$625,454; and

e. Pursuant to an ordinance adopted by the City Council on October 31, 2012, the City entered into a redevelopment agreement with Ravenswood Station, LLC, dated as of November 12, 2012, whereby the City pledged certain taxes generated by parcels within the Western Avenue North Redevelopment Area for the payment of redevelopment project costs in connection with the Ravenswood Station redevelopment project in an amount not to exceed \$4,500,000.

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

“Project Budget” shall mean the budget attached hereto as **Exhibit H-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.

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

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

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

“Requisition Form” shall have the meaning set forth in **Section 4.04** hereof.

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

“Survey” shall mean a plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property, meeting the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, effective February 23, 2011, 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 earlier of December 31, 2038, the date on which the Redevelopment Area is no longer in effect or the date the Agreement is terminated pursuant to **Section 15**.

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

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

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

“**TIF Bond Proceeds**” shall have the meaning set forth in the Recitals hereof.

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

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

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

“**Title Company**” shall mean Chicago Title Insurance Company.

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

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

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

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

“**WHC Phase**” shall have the meaning set forth in the Recitals hereof.

“**Western Avenue North Redevelopment Area**” shall mean the redevelopment project area established pursuant to ordinances adopted on January 12, 2000 in connection with the adoption of the Western Avenue north redevelopment plan.

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 of the WHC Phase no later than April 2, 2014; and complete construction and conduct business operations therein no later than December 31, 2014, and (ii) commence construction of the ER Phase no later than July 1, 2015; and complete construction and conduct business operations therein no later than September 30, 2016. Developer shall be bound by the Operating Covenant, Jobs Covenants, and other obligations and deadlines described in **Section 8.06** and elsewhere in this Agreement.

3.02 Scope Drawings and Plans and Specifications. Developer has delivered the Scope Drawings and Plans and Specifications for the WHC Phase to DPD and DPD has approved same. Prior to commencement of any work on the ER Phase, Developer shall deliver Scope Drawings and Plans and Specifications for DPD approval. After such initial approvals, subsequent proposed changes to such Scope Drawings or Plans and Specifications shall be submitted to DPD as a Change Order pursuant to **Section 3.04** hereof. All Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan, the Planned Development, and all Laws, including without limitation, all zoning and building code requirements. Developer shall submit all necessary documents to the City's Buildings 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 Eighteen Million Three Hundred Ninety-Seven Thousand Eight Hundred Six Dollars (\$18,397,806). Developer hereby certifies to the City that (a) the City Funds, together with Lender Financing and Equity described in **Section 4.02** hereof, shall be sufficient to complete the Project. Developer hereby certifies to the City that (a) it has Lender Financing and Equity in an amount sufficient to pay for all Project costs; and (b) the Project Budget is true, correct and complete in all material respects. Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to **Section 3.04** hereof.

3.04 Change Orders. Except as provided below in this **Section 3.04**, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Project must be submitted by Developer to DPD concurrently with the progress reports described in **Section 3.07** hereof; provided, that any Change Order relating to any of the following must be submitted by Developer to DPD for DPD's prior written approval: (a) a reduction in the gross or net square footage of the WCS Phase or the ER Phase by five percent (5%) or more (either individually or cumulatively); (b) a change in the use of Project to a use other than as described in **Recital E** to this Agreement; (c) a delay in the completion of the WHC Phase or the ER Phase by six (6) months or more; or (d) Change Orders resulting in an aggregate increase to the Project Budget for the Project of ten percent (10%) or more. Developer shall not authorize or permit the performance of any work relating to any Change Order described in the preceding clauses (a) through (d) or the furnishing of materials in connection therewith prior to the receipt by Developer of DPD's written approval (to the extent said City prior approval is required pursuant to the terms of this Agreement). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to

Developer. Notwithstanding anything to the contrary in this **Section 3.04**, Change Orders other than those set forth above do not require DPD's prior written approval as set forth in this **Section 3.04**, but DPD shall be notified in writing of all such Change Orders within 10 business days after the execution of such Change Order and the Developer, in connection with such notice, shall identify to DPD the source of funding therefor.

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

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

3.07 Progress Reports and Survey Updates. Developer shall provide DPD with written quarterly construction progress reports detailing the status of the Project, including a revised completion date, if necessary (with a delay in the completion of the Project by 180 days being considered a Change Order, requiring DPD's written approval pursuant to **Section 3.04**). Developer shall provide three (3) copies of an updated Survey to DPD upon the request of DPD or any Lender providing Lender Financing, reflecting improvements made to the Property.

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

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 Laws. DPD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10 Signs and Public Relations. The 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.

SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be Eighteen Million Three Hundred Ninety-Seven Thousand Eight Hundred Six Dollars (\$18,397,806), with such amounts for the WHC Phase and the ER Phase to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <u>Sections 4.03(b) and 4.06</u>)	
Investments	\$ 1,000,000
Capital Campaign	\$ 3,000,000
Cash	\$ 7,297,806
Lender Financing (*)	<u>\$ 7,100,000</u>
ESTIMATED TOTAL	\$18,397,806

(*) from proceeds of bonds issued under Master Indenture

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 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)**, **4.03(c)** and **4.05(b)**), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost, the Requisition Form, and documentation satisfactory in form and substance to DPD (including Developer's filing of a Jobs and Occupancy Certificate) evidencing Developer's compliance with the Operating Covenant and the applicable Jobs Covenant then due, as set forth in **Section 8.06**.

(b) Payment of City Funds.

1. Subject to the terms and conditions of this Agreement, including but not limited to this **Section 4.03**, **Section 4.05(b)** and **Section 5** hereof, the City hereby agrees to pay for or reimburse the Developer for the actual Project costs of the TIF-Funded Improvements, in an amount not to exceed the Maximum Per Phase TIF Assistance Amount (the "City Funds") in Installments, as follows:

<u>Project Phase</u>	<u>Source of City Funds</u>	<u>Maximum Per Phase TIF Amount</u>
WHC Phase	Available Incremental Taxes	\$2,400,000
ER Phase	Available Incremental Taxes	\$2,200,000

provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed the lesser of (a) the Maximum Per Phase TIF Amount as set forth above and \$4,600,000 in the aggregate, or (b) the amount of City Funds calculated as described in the following clause; provided further, in the event that the Final WHC Phase Project Cost is less than \$8,017,680

or the Final ER Phase Project Cost is less than \$10,380,126, the total amount of City Funds shall be reduced by \$1.00 for every \$1.00 (or portion thereof) by which the Final WHC Phase Project Cost or Final ER Phase Project Cost is less than \$8,017,680 or \$10,380,126, respectively. Such reduction shall be a reduction in WHC Payment 1 and ER Department Payment 1, respectively.

2. The City's financial commitment to provide Available Incremental Taxes for such purposes is subject to the Prior TIF Financings and the availability of sufficient Available Incremental Taxes.
3. Subject to the terms and conditions of this Agreement, payments of the City Funds shall be made to the Developer in installments (each, an "Installment") upon the Developer's submission of a Requisition Form in accordance with **Section 4.03(c)**. Such Installments shall be in the amount set forth in **Section 4.03(c)**; provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed the applicable Maximum Per Phase TIF Amount.
4. City Funds derived from Incremental Taxes and available to pay such costs and allocated for such purposes shall be paid in accordance with the terms of this Agreement only so long as no Event of Default or condition for which the giving of notice or the passage of time, or both, would constitute an Event of Default exists under this Agreement.

The Developer acknowledges and agrees that the City's obligation to pay Installments of City Funds in an amount not to exceed the applicable Maximum Per Phase TIF Amount is contingent upon the fulfillment of the conditions set forth in (1) through (4) above, as well as the prior issuance of the Initial Certificate or Final Certificate, as the case may be, and the Developer's satisfaction of all other applicable terms and conditions of this Agreement. In the event that such condition is not fulfilled, the amount of Equity and/or Lender Financing to be contributed by Developer pursuant to **Section 4.01** hereof shall increase proportionately.

(c) **Payment Amount.** (i) The Installments, to be paid pursuant to the time frames set forth herein and in accordance with the terms and conditions of this Agreement shall be made upon the submission of a Requisition Form to the satisfaction of DPD, shall be as follows:

<u>Installment</u>	<u>Payment Trigger</u>	<u>Maximum Payment Amount</u>
WHC Payment 1	Issuance of Initial Certificate and subsequent submission of WHC Payment 1 Requisition Form	\$920,000*
WHC Payment 2	One Year Anniversary of WHC Payment 1	\$920,000
WHC Payment 3	Two Year Anniversary of WHC Payment 1	\$560,000

ER Department Payment 1	Issuance of Final Certificate and subsequent submission of ER Department Payment 1 Requisition Form	\$360,000*
ER Department Payment 2	One Year Anniversary of ER Department Payment 1	\$920,000
ER Department Payment 3	Two Year Anniversary of ER Department Payment 1	\$920,000

* The Maximum Payment Amount set forth herein is subject to be reduced in accordance with the provisions of **Section 4.03(b)(1)** hereof.

4.04 Requisition Form. Conditioned upon the issuance of the Initial Certificate and the Final Certificate pursuant to **Section 7** hereof, Developer shall provide DPD with a Requisition Form, substantially in the form of **Exhibit L** hereto, documentation satisfactory in form and substance to DPD (including Developer’s filing of a Jobs and Occupancy Certificate) evidencing Developer’s compliance with the Operating Covenant and the applicable Jobs Covenant then due, as set forth in **Section 8.06**, along with the documentation described therein and such other supporting documentation as DPD shall request.

A Requisition Form for WHC Payment 1 shall be submitted following the issuance of the Initial Certificate. If the Initial Certificate is issued prior to May 1, 2015, then subject to the availability of Available Incremental Taxes and the submission of a Requisition Form no fewer than (60) days prior to the payment, the City will make reasonable effort to pay the Developer WHC Payment 1 by July 1, 2015. A Requisition Form for ER Department Payment 1 shall be submitted following the issuance of the Final Certificate. Subject to the availability of Available Incremental Taxes and the submission of a Requisition Form no fewer than sixty (60) days prior to the payment, the City will make reasonable effort to pay the Developer ER Department Payment 1 by the earlier of the first quarter of the calendar year following the issuance of the Final Certificate or 180 days of the issuance of the Final Certificate.

The Developer shall meet with DPD at the request of DPD to discuss the Requisition Form(s) previously delivered. If the total FTEs measured as of the applicable anniversary of the issuance of the Final Certificate is less than the applicable FTE requirement in the Jobs Covenant, then the Installment with respect to such anniversary shall equal zero. Upon the written request by the Developer accompanying a Requisition Form for reimbursement of TIF-Funded Improvements, the City agrees to make payments of City Funds then owing to the Developer directly to the Lender using wire transfer instructions provided by the Developer.

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 or Lender Financing hereunder (the “Prior Expenditures”). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. **Exhibit I** hereto sets forth

the prior expenditures approved by DPD as of the Closing Date as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by Developer pursuant to **Section 4.01** hereof.

(b) 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, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of DPD.

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 the payment of each Installment of City Funds hereunder, Developer shall submit, in the timeframe set forth in **Section 4.04** hereof, a Requisition Form and documentation regarding the applicable expenditures to DPD that are satisfactory to DPD in its sole discretion. Delivery by Developer to DPD of any request for payment of an Installment 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 payment, that:

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

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

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

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

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

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

(g) the Project is In Balance. The Project shall be deemed to be in balance ("In Balance") only if the total of the Available Project Funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. Developer hereby agrees that, if the Project is not In Balance, Developer shall, within 10 days after a written request by the City, provide the City with evidence of sufficient sources of funds that will place the Project In Balance.

The City shall have the right, in its discretion, to require Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by Developer. In addition, Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances, and this Agreement.

4.08 Conditional Grant. The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The City Funds are subject to being terminated, suspended and/or reimbursed as provided in Section 15 hereof.

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 DPD, and DPD has approved, the Scope Drawings and Plans and Specifications with respect to the WHC Phase in accordance with the provisions of Section 3.02 hereof.

5.03 Other Governmental Approvals. Developer has secured all other necessary approvals and permits required by any Laws and has submitted evidence thereof to DPD.

5.04 Financing. Developer has furnished proof reasonably acceptable to the City that Developer has Equity and Lender Financing in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by Developer as needed and are sufficient (along with the Equity and other sources set forth in Section 4.01) to complete the Project. Developer has delivered to DPD a copy of the Loan Agreement and Master Indenture entered into by Developer regarding the Lender Financing. The encumbrances of the City set forth herein have been sufficiently subordinated to any indebtedness secured as of the Closing Date by the Master Indenture as, and to the extent, required by the terms of the Master Indenture.

5.05 Acquisition and Title. On the Closing Date, Developer has furnished the City with copies of the Title Policies for the Property, certified by the Title Company, showing (i) the Developer as the named insured and (ii) the Lender 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 G 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 (as applicable): zoning (3.1 with parking), contiguity, location, access and survey.

Developer has provided to DPD, on or prior to the Closing Date, documentation related to the purchase of the Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DPD's satisfaction, by the Title Policy and any endorsements thereto and copies of any ground leases and operating leases applicable to the Facility.

5.06 Evidence of Clean Title. Developer, at its own expense, has provided the City with searches as indicated in the chart below under Developer's name showing no liens against Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens:

Jurisdiction	Searches
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 (including bankruptcy)
Clerk of Circuit Court, Cook County	Pending suits and judgments

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

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

5.09 Opinion of Developer's Counsel. On the Closing Date, Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as **Exhibit J**, with such changes as required by or acceptable to Corporation Counsel. If the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in **Exhibit J** hereto, such opinions were obtained by Developer from its general corporate counsel.

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

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

5.12 Documentation; Employment Plan. The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters in connection with the construction or rehabilitation work on the Project, including the reports described in **Section 8.07**. At least thirty (30) days prior to the Closing Date, the Developer has met with the Workforce Solutions division of DPD to review employment opportunities with the Developer after construction or rehabilitation work on the Project is completed. On or before the Closing Date, the Developer has provided to DPD, and DPD has approved, the Employment Plan for the Project (the "**Employment Plan**"). The Employment Plan includes, without limitation, the Developer's estimates of future job openings, titles, position descriptions, qualifications, recruiting, training, placement and such other information as DPD has requested relating to the Project.

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

5.14 Corporate Documents; Economic Disclosure Statement. Developer has provided a copy of its articles of incorporation 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 incorporation 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; partnership agreement, by-laws and such other documentation as the City has requested.

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

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

SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. (a) The City has approved the Developer's selection of Pepper Construction Company a Delaware corporation, as the General Contractor with respect to the WHC Phase. The Developer has submitted copies of such Construction Contract to DPD in accordance with **Section 6.02** below. Prior to entering into an agreement with a General Contractor or any subcontractor for construction of the ER Phase, the Developer shall solicit, or shall cause such General Contractor to solicit, bids from qualified contractors eligible to do business in the City of Chicago, and shall submit all bids received to DPD for its inspection and written approval. For the TIF-Funded Improvements, Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the ER Phase in a timely manner. If Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds.

(b) Photocopies of all subcontracts entered or to be entered into in connection with the

TIF-Funded Improvements for the ER Phase shall be provided to DPD within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor for the ER Phase shall not (and shall cause such General Contractor to ensure that its subcontractors shall not) begin work on the ER Phase, until the applicable 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 for the ER Phase 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 for the ER Phase by Developer, such 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 the form attached as **Exhibit N** hereto. 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 Contracts and each contract with any subcontractor shall contain provisions required pursuant to **Section 3.04** (Change Orders), **Section 8.09** (Prevailing Wage), **Section 10.01(e)** (Employment Opportunity), **Section 10.02** (City Resident Employment Requirement) **Section 10.03** (MBE/WBE Requirements, as applicable), **Section 12** (Insurance) and **Section 14.01** (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof.

SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificates of Completion.

(a) Upon completion of the construction of the WHC Phase in accordance with the terms of this Agreement and upon satisfaction in DPD's sole discretion of the conditions set forth in (i) through (vi) of this **Section 7.01(a)**, and upon Developer's written request, which shall include a final budget for the WHC Phase portion of the Project detailing the total actual cost of construction of the WHC Phase (a "Final WHC Phase Project Cost"), DPD shall issue to Developer the Initial Certificate. The City will issue an Initial Certificate upon the following conditions:

- i. The Developer has completed construction of the WHC in accordance with the Plans and Specifications;
- ii. The WHC is fully operational, has received a Certificate of Occupancy from

the City's Building Department, and documentation satisfactory to DPD that the Developer has complied with building permit requirements for the WHC Phase;

- iii. The Developer has provided an affidavit that the WHC has achieved at least fourteen (14) out of the maximum seventeen (17) possible points for the LEED Indoor Air Quality section which are set forth in **Exhibit F** hereto;
- iv. The City's Monitoring and Compliance unit has determined in writing that the Developer is in complete compliance with all City Requirements (M/WBE, City Residency, and Prevailing Wage) with respect to the WHC Phase;
- v. The Developer has submitted adequate documentation of that the Final WHC Phase Project Cost is at least \$8,017,680; provided, however, that in the event that the Final WHC Phase Project Cost is less than \$8,017,680, the total amount of City Funds shall be reduced by \$1.00 for every \$1.00 (or portion thereof) by which the Final WHC Phase Project Cost is less than \$8,017,680, as described in **Section 4.03(b)**; and
- vi. There exists neither an Event of Default which is continuing nor a condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default.

(b) Upon completion of the construction of the Project in accordance with the terms of this Agreement and upon satisfaction in DPD's sole discretion of the conditions set forth in (i) through (x) of this **Section 7.01(b)**, and upon Developer's written request, which shall include a final budget for the ER Phase (the "Final ER Department Phase Project Cost") and of the Project (the "Final Project Cost"), DPD shall issue to Developer a Final Certificate in recordable form certifying that Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. The City will issue a Final Certificate upon the following conditions:

- i. The Developer has completed construction of the Project according to the Plans and Specifications;
- ii. The Initial Certificate has been issued by the City;
- iii. The ER Department is fully operational, has received a Certificate of Occupancy from the City's Building Department, and documentation satisfactory to DPD that the Developer has complied with building permit requirements for the ER Phase;
- iv. At least thirty (30) new FTE positions have been created at the Facility and at least 2,400 positions (no fewer than 1,700 of which shall be FTE positions, with the remainder being PTE positions) have been maintained at the Hospital campus, as evidenced by the Jobs and Occupancy Certificate;
- v. The Developer has provided an affidavit that the ER Department has achieved at least fourteen (14) out of the maximum seventeen (17) possible points for the LEED Indoor Air Quality section which are set forth in **Exhibit F** hereto;
- vi. The City's Monitoring and Compliance unit has determined in writing that the

Developer is in complete compliance with all City Requirements (M/WBE, City Residency, and Prevailing Wage) with respect to the ER Phase;

- vii. The Final ER Department Phase Project Cost incurred by the Developer is at least \$10,380,126 and that the Final Project Cost is at least \$18,397,806; provided, however, that in the event that the Final ER Department Phase Project Cost is less than \$10,380,126 or the Final Project Cost is less than \$18,397,806, the total amount of City Funds shall be reduced by \$1.00 for every \$1.00 (or portion thereof) by which the Final ER Department Final Project Cost is less than \$10,380,126 or the Final Project Cost is less than \$18,397,806, as the case may be, as described in **Section 4.03(b)**;
- viii. Evidence that the Developer has incurred TIF-eligible costs in an equal amount to, or greater than, \$4,600,000 TIF-eligible costs including demolition, site preparation, environmental remediation, rehabilitation, and other eligible activities under the Act; and
- ix. There exists neither an Event of Default which is continuing nor a condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default.

DPD shall respond to Developer's written request for the Initial Certificate and Final Certificate within forty-five (45) days by issuing either such Certificate or a written statement detailing the ways in which the WHC Phase or ER Phase of the Project, as applicable, does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by Developer in order to obtain such Certificate. Developer may resubmit a written request for such Certificate upon completion of such measures.

7.02 Effect of Issuance of Certificate; Continuing Obligations. The Initial Certificate relates only to the completion of WHC Phase and the Final Certificate relates only to the completion of the Project. Upon issuance of the Final Certificate, the City will certify that the terms of the Agreement specifically related to Developer's obligation to complete the Project have been satisfied. After the issuance of both the Initial Certificate and the Final Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph. Neither the issuance of the Initial Certificate nor the Final Certificate shall 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 8.01(j), 8.01(k), 8.02, 8.06, 8.19, 8.20, 8.23** and **8.25** as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of the Initial Certificate or the Final Certificate; provided, that upon the issuance of the Final Certificate, 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 the Final Certificate shall be binding only upon Developer or a permitted assignee of Developer who, pursuant to **Section 18.15** 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 any other related agreements to which the City and Developer are or shall be parties and/or cease all disbursement of City Funds;

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

(c) the right to seek reimbursement of the City Funds from Developer, provided that the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status of the TIF Bonds, if any.

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. Developer represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) Developer is an Illinois not-for-profit corporation duly organized, validly existing, qualified to do business and in Illinois, and licensed to do business in Illinois and in any other state where, due to the nature of its activities or properties, such qualification or license is required;

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

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

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

(e) Developer 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 Developer which would impair its ability to perform under this Agreement;

(g) Developer 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) Developer 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 Developer is a party or by which Developer 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 Developer, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of Developer since the date of Developer's most recent Financial Statements;

(j) Prior to the ten (10) year anniversary of the issuance of the Final Certificate, the Developer shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to Developer's financial condition;

(k) Except as permitted in the Master Indenture, the Developer has not incurred, and, prior to the issuance of the Final Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing, if any, disclosed in the Project Budget; Permitted Liens incurred after the Closing Date shall be subordinated to those encumbrances set forth herein, only to the extent permitted in the Master Indenture and pursuant to a subordination agreement, if and as necessary, substantially in the form of Exhibit M hereof, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

(l) the Developer 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 Developer nor any affiliate of Developer 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; and

(n) Developer agrees that Developer, any person or entity who directly or indirectly has an ownership or beneficial interest in Developer of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, Developer's contractors (i.e., any person or entity in direct contractual privity with Developer regarding the subject matter of this Agreement) ("Contractors"), any person or entity who directly or indirectly has an ownership or beneficial interest in any Contractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (Developer and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee (i) after execution of this Agreement by Developer, (ii) while this Agreement or any Other Contract (as defined below) is executory, (iii) during the term of this Agreement or any Other Contract between Developer and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

Developer represents and warrants that from the later of (i) May 16, 2011, or (ii) the date the City approached the Developer or the date the Developer approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

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

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

Developer agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted unless the City, in its sole discretion, elects to grant such an opportunity to cure. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Developer intentionally violates this provision or Mayoral Executive Order No. 2011-4 prior to the closing of this Agreement, the City may elect to decline to close the transaction contemplated by this Agreement.

For purposes of this provision:

“Bundle” means to collect contributions from more than one source which is then delivered by one person to the Mayor or to his political fundraising committee.

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

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

Individuals are “Domestic Partners” if they satisfy the following criteria:

- (A) they are each other’s sole domestic partner, responsible for each other’s common welfare; and
- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two of the following four conditions exist for the partners:
 - 1. The partners have been residing together for at least 12 months.
 - 2. The partners have common or joint ownership of a residence.
 - 3. The partners have at least two of the following arrangements:
 - a. joint ownership of a motor vehicle;
 - b. a joint credit account;
 - c. a joint checking account;
 - d. a lease for a residence identifying both domestic partners as tenants.
 - 4. Each partner identifies the other partner as a primary beneficiary in a will.

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

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 Ordinance, if any, the Bond Ordinance, if any, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all Laws applicable to the Project, the Property and/or Developer. The covenants set forth in this Section shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of the Final Certificate.

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

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

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

8.06 Operating Covenant; Job Creation and Retention.

(a) **Operating Covenant.** The Developer hereby covenants and agrees to maintain the Facility, including without limitation the WHC and the ER Department, at the Property throughout the Term of the Agreement (collectively, the "**Operating Covenant**"). A default under the Operating Covenant shall constitute an Event of Default without notice or opportunity to cure.

(b) **Jobs Covenant.** The Developer shall adhere to the following job creation and retention standards (collectively the "**Jobs Covenant**"):

(i) Prior to the date the Developer requests the City to issue the Final Certificate under **Section 7.01** hereof, the Developer shall have created not less than thirty (30) new positions and retained not less than 2,400 positions (no fewer than 1,700 of which shall be FTE positions, with the remainder being PTE positions) at the Hospital campus;

(ii) During the Compliance Period, the Developer shall maintain at least 2,280 positions (no fewer than 1,615 of which shall be FTE positions, with the remainder being PTE positions); and

(iii) During the Compliance Period, for purposes of determining eligibility for insurance, retirement and other employee benefits that may be offered by the Developer, the Developer shall continue to treat (A) an individual who is budgeted and scheduled to work a minimum of 64 hours per pay period on a regularly scheduled basis as a regular full-time employee, and (B) an individual who is budgeted and scheduled to work between 48 to 63 hours per pay period on a regularly scheduled basis as a regular part-time employee.

(c) **Jobs and Occupancy Certificates.** Throughout the Compliance Period, the Developer shall submit to DPD annual certified Jobs and Occupancy Certificates disclosing compliance with the then-applicable Jobs Covenant and the Operating Covenant. These Jobs and Occupancy Certificates shall be submitted to DPD by February 1st for the prior calendar year. The Developer agrees that it shall act in good faith and, among other things, shall not hire temporary workers or relocate workers for short periods of time for the primary purpose of avoiding a breach of the Jobs Covenant. The Jobs and Occupancy Certificate shall include the names, addresses and zip codes of principal residence, and job titles of FTEs and PTEs employed at the Facility as of the end of the prior calendar year.

(d) **Jobs Covenant Default and Cure Period.** If the Developer defaults under the Jobs Covenant, an Event of Default shall not be declared with respect to such default if the Developer, upon irrevocable written notice (the “**Extension Notice**”) accompanying the Jobs and Occupancy Certificate, elects to extend the Compliance Period by one year to the eleventh (11th) anniversary of the date the Final Certificate is issued. The one-year period during which the Extension Notice is given shall be the only cure period allowed for a default by Developer of the Jobs Covenant as described in this paragraph; no other notice or cure periods shall apply thereto and if such default is not cured within such one-year period then the Compliance Period shall not be extended and an Event of Default shall exist without notice or opportunity to cure. If the Developer has not delivered a permitted Extension Notice then any default by the Developer of the Jobs Covenant shall constitute an Event of Default without notice or opportunity to cure. The Developer shall be entitled to deliver one Extension Notice. If the Developer has delivered an Extension Notice, then any subsequent default by the Developer of the Jobs Covenant shall constitute an Event of Default without notice or opportunity to cure.

(e) **Covenants Run with the Land; Remedy.** The covenants set forth in this **Section 8.06** shall run with the land and be binding upon any transferee. In the event of a default for any of the covenants in this **Section 8.06**, the City shall have the right to recapture the full amount of all City Funds previously paid or disbursed to the Developer for the Project if such default(s) is/are not cured during the applicable cure period, if any, and to exercise any other remedies described or referred to in this Agreement.

8.07 Employment Opportunity; Progress Reports. Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in **Section 10** hereof 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 monthly. 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. 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, the Property or any other property in the Redevelopment Area.

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

8.13 Financial Statements. Developer shall obtain and provide to DPD Financial Statements for Developer's fiscal year ended 2013 and each December 31 thereafter throughout the Compliance Period. 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.

(a) Representation. To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all Laws pertaining to or affecting the Project and the Property. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

(b) Covenant. The Developer covenants that the Property and the Project will be operated and managed in compliance with all Laws. Upon the City's request, the Developer shall provide evidence to the City of its compliance with this covenant.

8.18 Recording and Filing. Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the date hereof in the conveyance and real property records of the county in which the Project is located. This Agreement shall be recorded prior to any mortgage made in connection with Lender Financing. 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 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. 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,

(i) 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

(ii) 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. With respect to the Property or the Project, nothing in this Agreement shall prevent Developer or any agent, representative, lessee, tenant, assignee, transferee or successor in interest to Developer, during the Term of this Agreement, from seeking or authorizing 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. Notwithstanding the foregoing, if at any time during the Term of this Agreement all or any portion of the Property or the Project is not exempt from real estate taxes (the "**Non-exempt Property**"), then the following provisions shall apply to the Non-exempt Property:

(i) Acknowledgment of Real Estate Taxes. Developer and the City shall negotiate in good faith to establish an Exhibit to be attached to this Agreement and containing (A) the total projected minimum assessed value of the Non-exempt Property ("**Minimum Assessed Value**") for the years noted on the exhibit; (B) the specific improvements which will generate the fair market values, assessments, equalized assessed values and taxes shown thereon; and (C) the real estate taxes anticipated to be generated and derived from the respective portions of the Non-exempt Property for the years shown on the exhibit.

(ii) No Reduction in Real Estate Taxes. Neither Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to Developer shall, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value for the applicable year as shown in the exhibit described in Section 8.19(c)(i).

(iii) No Objections. Neither Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to Developer, shall object to or in any way seek to interfere with, on procedural or any other grounds, the filing of any Underassessment Complaint or subsequent proceedings related thereto with the Cook County Assessor or with the Cook County Board of Appeals, by either the City or any taxpayer. The term "Underassessment Complaint" as used in this Agreement shall mean any complaint seeking to increase the assessed value of the Property up to (but not above) the Minimum Assessed Value as shown in the exhibit described in Section 8.19(c)(i).

(iv) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.19(c) are covenants running with the land 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) Change in Use and Ownership. If applicable during the Term of this Agreement, 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. After delivery of the notification to the Cook County Assessor via certified mail, return receipt requested, Developer shall forward a copy of the return receipt to DPD, with a copy to the City's Corporation Counsel's office. Additionally, the provisions of this Section 8.19 do not prohibit a change in use of portions of the Property so long as the Developer is in compliance with the Operating Covenant as set forth in Section 8.06(a) hereof, including if such change in use results in Non-exempt Property thereafter being exempt from the payment of real estate taxes.

8.20 Annual Compliance Report. During the Compliance Period, the Developer shall submit to DPD the Annual Compliance Report within 30 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 Green Initiatives. The Developer shall provide an affidavit documenting it has achieved at least fourteen (14) out of the maximum seventeen (17) possible points on the LEED Indoor Air Quality Certification, which are set forth in **Exhibit F** hereto, for each of the WHC and the ER Department.

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

(c) **Local Records Act.** The Developer acknowledges that the City is subject to the Local Records Act, 50 ILCS 205/1 et. seq, as amended (the “Local Records Act”). The Local Records Act provides that public records may only be disposed of as provided in the Local Records Act. If requested by the City, the Developer covenants to use its best efforts consistently applied to assist the City in its compliance with the Local Records Act.

8.24 Job Readiness Program. Developer shall undertake a job readiness program to work with the City, through DPD’s Workforce Unit, to participate in job training programs to provide job applicants for the jobs created by the Project and the operation of Developer’s business on the Property.

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 the Final Certificate) shall be in effect throughout the Term of the Agreement.

SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

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

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

SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

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

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

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

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 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 DPD in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

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

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

Good faith efforts on the part of Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section 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 H-2** hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 24 percent by MBEs.
- (2) At least four 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 construction of 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. During the Project, Developer shall submit the documentation required by this **Section 10.03** to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that Developer is not complying with its obligations under this **Section 10.03**, shall, upon the delivery of written notice to Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to Developer to halt the Project, (2) withhold any further payment of any City Funds to Developer or the General Contractor, or (3) seek any other remedies against Developer available at law or in equity.

SECTION 11. ENVIRONMENTAL MATTERS

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

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

SECTION 12. INSURANCE

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

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

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (Primary and Umbrella)

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

(iii) All Risk Property

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

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

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability (Primary and Umbrella)

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

(iv) Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Developer must provide cause to be provided with respect to the operations that Contractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) All Risk /Builders Risk

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

(vi) Professional Liability

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

(vii) Valuable Papers

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

(viii) Contractors Pollution Liability

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

(c) Post Construction:

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

(d) Other Requirements:

Developer must furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. Developer must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to 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; or

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

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

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

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

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

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

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

SECTION 15. DEFAULT AND REMEDIES

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

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

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

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

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

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

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

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

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

(i) the dissolution of Developer;

(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) during the Compliance Period, the sale or transfer of a majority 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.

15.02 Remedies. Upon the occurrence of an Event of Default, the City may terminate this Agreement and any other agreements to which the City and Developer are or shall be parties, suspend or permanently discontinue continued disbursement of City Funds or seek reimbursement of any City Funds paid. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to damages, injunctive relief or the specific performance of the agreements contained herein. Upon the occurrence of an Event of Default under **Section 8.06**, Developer shall be obligated to repay to the City all previously disbursed City Funds.

Upon the occurrence of an Event of Default because of failure to comply with **Section 8.01(j)(5)** (in the event of a sale or transfer of the Facility or any part thereof for any use other than a health care facility prior to the ten (10) year anniversary of the issuance of the Final Certificate), the Developer agrees to pay and remit to the City an amount equal to five percent (5%) of such sale, transfer, lease or other disposition based on the final executed settlement statement prepared in connection with such sale, transfer or other disposition, with such repayment amount not to exceed 110% of the total City Funds paid to the Developer. Payments to the City made pursuant to this **Section 15.02** are subject to the subordination provisions of the Master Indenture, relevant portions of which are included in **Exhibit M**.

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.

Notwithstanding any other provision of this Agreement to the contrary:

- (a) the only cure periods, if any, applicable to the Developer's failure to comply with the Jobs Covenant are those set forth in Section 8.06;
- (b) there shall be no notice requirement or cure period with respect to an Event of Default arising from the Developer's failure to comply with the Operations Covenant; and
- (c) there shall be no notice requirement or cure period with respect to Events of Default described in Section 8.20 (with respect to filing the Annual Report).

SECTION 16. MORTGAGING OF THE PROJECT

That certain Mortgage and Security Agreement dated as of January 15, 2010 from the Developer, as mortgagor, to U.S. Bank National Association, as mortgagee, as supplemented and amended to the date hereof and as shall be amended and supplemented in the future is referred to herein as the "**Existing Mortgage**." The Existing Mortgage is the only mortgage or deed of trust in place as of the date hereof with respect to the Property or any portion thereof. No amendments or supplements to the Existing Mortgage shall be deemed to be a New Mortgage as defined hereinafter.

Any mortgage or deed of trust that Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a "Permitted Mortgage." It is hereby agreed by and between the City and Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a New Mortgage (other than a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.14 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.15 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of Developer which accrued prior to the time such party

succeeded to the interest of Developer under this Agreement, in which case Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to Developer of the Final Certificate 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. After issuance of the Final Certificate, if a mortgagee or other permitted transferee executes a subordination agreement in which it subordinates its New Mortgage to the covenants contained in Section 8.02, Section 8.06, and Section 8.19 of this agreement, then City consent is not required for the New Mortgage.

SECTION 17. NOTICE

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

<p>If to the City:</p> <p>City of Chicago Department of Planning and Development 121 North LaSalle Street, Room 1000 Chicago, Illinois 60602 Attention: Commissioner</p>	<p>If to Developer:</p> <p>Swedish Covenant Hospital President and CEO 5145 N. California Ave. Chicago, IL 60625</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>Senior Vice President/Chief Operating Officer Swedish Covenant Hospital 5145 N. California Ave. Chicago, IL 60625</p> <p>and to</p> <p>Vice President, Legal Affairs and General Counsel Swedish Covenant Hospital 5145 N. California Ave. Chicago, IL 60625</p>

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

SECTION 18. MISCELLANEOUS

18.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement the Redevelopment Plan without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this **Section 18.01** shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, 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, including but not limited to extension of the time periods for completion of the WHC Phase or ER Phase more than ninety (90) days past the timeframes set forth in **Section 3.04** hereof.

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 and/or the Bond Ordinance, if any, such ordinance(s) shall prevail and control.

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

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

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

18.14 Assignment. Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Any successor in interest to Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Section 8.02** (Covenant to Redevelop), **Section 8.06** (Jobs Covenant), **Section 8.19** (Real Estate Provisions), **Section 8.20** (Annual Compliance Report), **Section 8.23** (FOIA and Local Records Act Compliance) and **Section 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, 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 may 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.

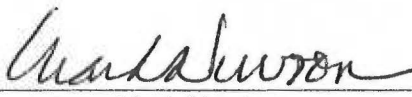
18.20 Business Relationships. The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a business relationship that creates a Financial Interest, 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. The 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 Subordination Agreement. Upon the request of a lender providing Lender Financing if required pursuant to the Master Indenture, the City shall agree to subordinate this Redevelopment Agreement to the mortgage of such lender pursuant to a written subordination agreement, the form of which shall be in a form reasonably acceptable to the City and Corporation Counsel.

[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.

SWEDISH COVENANT HOSPITAL,
an Illinois not-for-profit corporation

By: 
Mark Newton
President and CEO

CITY OF CHICAGO

By: _____
Andrew J. Mooney
Commissioner
Department of Planning and Development

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Mark Newton
President and CEO

CITY OF CHICAGO

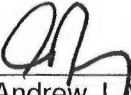
By: _____

Andrew J. Mooney
Commissioner
Department of Planning and Development

EXHIBIT A
REDEVELOPMENT AREA

See Attached.

SECTION 7. Effective Date. This ordinance shall be in full force and effect immediately upon its passage.

[Exhibit "C" referred to in this ordinance printed
on page 76810 of this *Journal*.]

Exhibits "A" and "B" referred to in this ordinance read as follows:

Exhibit "A".

*Foster And California Tax Increment Financing Redevelopment
Project Area Legal Description.*

That part of Section 12, Township 40 North, Range 13 East of the Third Principal Meridian, all in the City of Chicago, Cook County, Illinois, described as follows: beginning at the intersection of the north right-of-way line of Foster Avenue and the west right-of-way line of Francisco Avenue; thence east along said north right-of-way line of Foster Avenue to the southwest corner of Lot 608 in William H. Britigan's Budlong Woods Golf Club Addition Number 2, being a subdivision of part of the northwest quarter of Section 12 aforesaid; thence north along the west line of Lot 608 and its northerly extension to the north line of a public alley; thence east along the north line of the public alley to the southeast corner of Lot 588 in William H. Britigan's Budlong Woods Golf Club Addition Number 2; thence north along the east line of Lot 588 and its northerly extension to the north right-of-way line of Farragut Avenue; thence east along the north right-of-way line of Farragut Avenue to the east right-of-way line of California Avenue; thence south along the east right-of-way line of California Avenue to the north right-of-way line of Foster Avenue; thence east along the north right-of-way line of Foster Avenue to the southeast corner of Lot 271 in William H. Britigan's Budlong Woods Golf Club Addition, being a subdivision in the northeast quarter of Section 12 aforesaid; thence north along the east line of Lot 271 and its northerly extension to the intersection with the westerly extension of the north line of a public alley being the first public alley lying north of Foster Avenue; thence east along the northerly line of the public alley to the southeast corner of Lot 251 in William H. Britigan's Budlong Woods Golf Club Addition; thence north along the east line of Lot 251 and its northerly extension to the north right-of-way line of Farragut Avenue; thence east along the north right-of-way line of Farragut Avenue to the east right-of-way line of Washtenaw Avenue; thence south along the east right-of-way line of Washtenaw Avenue to the southwest corner of Lot 246 in William H. Britigan's Budlong Woods Golf Club Addition, being the north line of a public alley; thence east along the north line of the public alley to the west right-of-way line of Rockwell Street; thence continuing east to the east line of Rockwell Street and the north

line of a public alley being the southwest corner of Lot 69 in Oliver L. Salinger and Company's Lincoln Avenue Subdivision in the northeast quarter of Section 12 aforesaid; thence east along the north line of the public alley to the southeast corner of Lot 76 in Oliver L. Salinger and Company's Lincoln Avenue Subdivision, being the westerly line of a public alley; thence southerly along the westerly line of the public alley to the north right-of-way line of Foster Avenue; thence southerly to the intersection of the south right-of-way line of Foster Avenue and the east line of Lot 14 in Anton Conrad's Subdivision, being in the southeast quarter of Section 12 aforesaid; thence southerly along the east line of Lot 14 to the southeast corner of said Lot 14; thence west along the south line of Lot 14 and its westerly extension to the southwest corner of Lot 1 in Anton Conrad's Subdivision; thence south to the northeast corner of Lot 8 in George Klier's Resubdivision in the west half of the southeast quarter of Section 12 aforesaid; thence west along the north line of Lot 8 in George Klier's Resubdivision and its westerly extension to the northwest corner of Lot 5 in Widmer's Subdivision, being in the southeast quarter of Section 12 aforesaid; thence south along the west line of Lot 5 and its southerly extension to the south right-of-way line of Winona Street; thence west along the south right-of-way line of Winona Street to the northwest corner of Lot 20 in part of the Town of Bowmanville, being a subdivision in the southeast quarter of Section 12 aforesaid; thence south along the west line of Lot 20 and its southerly extension to the south right-of-way line of Carmen Avenue; thence west along the south right-of-way line of Carmen Avenue to the east right-of-way line of California Avenue; thence south along the east right-of-way line of California Avenue to the intersection with the easterly extension of the south line of Lot 2 in Charles F. Henry's Ravenswood Park Subdivision, being in the southwest quarter of Section 12 aforesaid; thence west along the easterly extension of the south line of Lot 2 to the west line of a public alley lying westerly of said Lot 2; thence north along the west line of the public alley to the southeast corner of Lot 19 in Charles F. Henry's Ravenswood Park Subdivision; thence west along the south line of Lot 19 and its westerly extension to the west right-of-way line of Mozart Street; thence north along the west right-of-way line of Mozart Street to the south right-of-way line of Carmen Avenue; thence west along the south right-of-way line of Carmen Avenue to the west right-of-way line of Francisco Avenue; thence north along the west right-of-way line of Francisco Avenue to the north right-of-way line of Foster Avenue, said point being the point of beginning.

Exhibit "B".

*Foster And California Tax Increment Financing
Redevelopment Project Area
Street Location.*

The area is generally bounded by Francisco Avenue on the west, Carmen Avenue on the south, the north/south alley west of Lincoln Avenue on the east, and Farragut Avenue on the north.

EXHIBIT B

PROPERTY

PINs: 13-12-306-012
13-12-400-001

Legal Description and addresses:

PARCEL 1 (COMMONLY KNOWN AS MAIN BUILDING - 5145 N. CALIFORNIA, EAST WING - 2740 W. WINONA, AND NELSON HALL - 2745 W. FOSTER):

LOTS 9, 10 AND LOT 11 (EXCEPT THE WEST 33 FEET OF SAID LOT 11)(AND EXCEPT THAT PART OF SAID LOTS 9, 10, AND 11 TAKEN FOR ROAD PURPOSES) IN THAT PART OF THE TOWN OF BOWMANVILLE WHICH IS INCLUDED WITHIN THE BOUNDARIES OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID TOWN OF BOWMANVILLE BEING A SUBDIVISION BY JESSE B. BOWMAN OF THE EAST HALF OF THE SOUTHEAST QUARTER AND OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 98 OF MAPS, PAGE 20, IN COOK COUNTY, ILLINOIS.

PARCEL 2 (COMMONLY KNOWN AS GALTER MEDICAL PAVILION – 5140 N. CALIFORNIA:

THAT PART OF BLOCK 1 LYING NORTH OF THE NORTH LINE OF VACATED WINONA STREET, EXCEPT (A) THE WEST 284.90 FEET OF THE SOUTH 171 FEET, (B) THOSE PARTS FALLING IN FOSTER AND FRANCISCO AVENUES AND (C) THE WEST 298.12 FEET LYING NORTH OF THE SOUTH 171 FEET) AND (D) THE FOLLOWING DESCRIBED PARCEL: BEGINNING AT A POINT 151.48 FEET NORTH OF THE NORTH LINE OF VACATED WINONA STREET AND 284.90 FEET EAST OF THE WEST LINE OF BLOCK 1 AFORESAID; THENCE NORTH, ALONG THE EAST LINE OF THE WEST 284.90 FEET OF BLOCK 1, A DISTANCE OF 19.52 FEET TO THE NORTH LINE OF THE SOUTH 171.00 FEET NORTH OF THE NORTH LINE OF VACATED WINONA STREET; THENCE EAST, ALONG THE NORTH LINE OF THE SOUTH 171.00 FEET NORTH OF THE NORTH LINE OF VACATED WINONA STREET, A DISTANCE OF 13.23 FEET TO THE EAST LINE OF THE WEST 298.12 FEET OF BLOCK 1; THENCE NORTH, ALONG THE EAST LINE OF THE WEST 298.12 FEET OF BLOCK 1, A DISTANCE OF 161.48 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF WEST FOSTER AVENUE; THENCE EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF WEST FOSTER AVENUE, A DISTANCE OF 27.98 FEET TO THE EAST LINE OF THE WEST 326.12 FEET OF BLOCK 1; THENCE SOUTH, ALONG THE EAST LINE OF THE WEST 326.12 FEET OF BLOCK 1 A DISTANCE OF 85.02 FEET TO THE NORTH LINE OF THE SOUTH 247.48 FEET NORTH OF THE NORTH LINE OF VACATED WINONA STREET; THENCE EAST, ALONG THE NORTH LINE OF THE SOUTH 247.48 FEET NORTH OF THE NORTH LINE OF VACATED WINONA STREET, A DISTANCE OF 40.88 FEET TO THE EAST LINE OF THE WEST 367.00 FEET OF BLOCK 1; THENCE SOUTH, ALONG THE EAST LINE OF THE WEST 367.00 FEET OF BLOCK 1 A DISTANCE OF 96.0 FEET TO THE NORTH LINE OF THE SOUTH 151.48 FEET NORTH OF THE NORTH LINE OF VACATED WINONA STREET; THENCE WEST, ALONG THE NORTH LINE OF THE SOUTH 151.48 FEET OF THE SOUTH 171.00 FEET NORTH OF THE NORTH LINE OF VACATED

WINONA STREET, A DISTANCE OF 82.10 FEET TO THE POINT OF BEGINNING AND (E) THE FOLLOWING DESCRIBED PARCEL: BEGINNING AT A POINT 151.48 FEET NORTH OF THE NORTH LINE OF VACATED WINONA STREET AND 284.90 FEET EAST OF THE WEST LINE OF BLOCK 1 AFORESAID; THENCE EAST, ALONG THE NORTH LINE OF THE SOUTH 151.48 FEET OF THE SOUTH 171.00 FEET NORTH OF THE NORTH LINE OF VACATED WINONA STREET, A DISTANCE OF 82.10 FEET TO THE EAST LINE OF THE WEST 367.00 FEET OF BLOCK 1; THENCE SOUTH, ALONG THE EAST LINE OF THE WEST 367.00 FEET OF BLOCK 1, A DISTANCE OF 81.48 FEET TO THE NORTH LINE OF THE SOUTH 70.00 FEET NORTH OF THE NORTH LINE OF VACATED WINONA STREET; THENCE EAST, ALONG THE NORTH LINE OF THE SOUTH 70.00 FEET NORTH OF THE NORTH LINE OF VACATED WINONA STREET, A DISTANCE OF 62.00 FEET TO THE EAST LINE OF THE WEST 429.00 FEET OF BLOCK 1; THENCE SOUTH, ALONG THE EAST LINE OF THE WEST 429.00 FEET OF BLOCK 1, A DISTANCE OF 70.00 FEET TO THE NORTH LINE OF VACATED WINONA STREET; THENCE WEST, ALONG THE NORTH LINE OF VACATED WINONA STREET, A DISTANCE OF 144.10 FEET TO THE EAST LINE OF THE WEST 284.90 FEET OF BLOCK 1; THENCE NORTH, ALONG THE EAST LINE OF THE WEST 284.90 FEET OF BLOCK 1, A DISTANCE OF 151.48 FEET TO THE POINT OF BEGINNING, ALL IN JACKSON'S SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 11 AND THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

EXHIBIT C

TIF-FUNDED IMPROVEMENTS

Costs of rehabilitation, reconstruction, or repair or remodeling of existing public or private buildings:	\$10,559,798*
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*Notwithstanding the total of TIF-Funded Improvements or the amount of TIF-eligible costs, the assistance to be provided by the City is limited to the amount described in Section 4.03 and shall not exceed \$4,600,000.

NOTE: All references to categories of TIF Funded Improvements described in this Exhibit are subject to the limitations and requirements of the TIF Act.

EXHIBIT D

JOBS AND OCCUPANCY CERTIFICATE

[Not Included for Recording.]

EXHIBIT E

CONSTRUCTION CONTRACT

WHC PHASE

[Not Included for Recording.]

EXHIBIT F

GREEN INITIATIVES

[Not Included for Recording.]

EXHIBIT G

PERMITTED LIENS

Terms used herein shall have the definition assigned to them in the Master Indenture

“*Permitted Encumbrances*” means the Master Indenture, any Related Loan Document, any Related Bond Indenture and, as of any particular time:

(a) Liens arising by reason of good faith deposits with a Member in connection with tenders, leases of real estate, bids or contracts (other than contracts for the payment of money), deposits by any Member to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges; any Lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable any Member to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workmen’s compensation, unemployment insurance, pensions or profit sharing plans or other social security plans or, programs, or to share in the privileges or benefits required for corporations participating in such arrangements;

(b) any Lien on Property other than the Facilities if, at the time the Indebtedness secured thereby is issued or incurred by any Member, or in the case of Property acquired subject to an existing Lien, at the time of such acquisition, the aggregate amount remaining unpaid on the Indebtedness secured thereby (whether or not assumed by the Member) shall not exceed the fair market value or (if such Property has been purchased) the lesser of the acquisition price or the fair market value of the Property subject to such Lien as determined in good faith by the Governing Body of the Member;

(c) Liens on accounts receivable arising as a result of the sale of such accounts receivable with or without recourse, provided that the principal amount of Indebtedness secured by any such Lien does not exceed the aggregate sales price of such accounts receivable received by the Member selling the same by more than 15%;

(d) any Lien on the Property of any Member granted in favor of or securing Indebtedness to any other Member;

(e) any Lien on the Property of any Member permitted under the provisions of Section 418 hereof;

(f) any Lien on Property if such Lien equally and ratably secures all of the Obligations and only the Obligations;

(g) leases which relate to Property of the Obligated Group which is of a type that is customarily the subject of such leases, such as office space for physicians and educational institutions, food service facilities, gift shops and radiology or other hospital-based specialty services, pharmacy and similar departments; and any leases, licenses or similar rights to use Property whereunder a Member is lessee, licensee or the

equivalent thereof upon fair and reasonable terms no less favorable to the lessee or licensee than would obtain in a comparable arm's-length transaction;

(h) Liens for taxes and special assessments which are not then delinquent, or if then delinquent are being contested in accordance with Section 406 hereof;

(i) utility, access and other easements and rights-of-way, restrictions, encumbrances and exceptions which do not materially interfere with or materially impair the operation of the Property affected thereby (or, if such Property is not being then operated, the operation for which it was designed or last modified);

(j) any mechanic's, laborer's, materialman's, supplier's or vendor's Lien or right in respect thereof if payment is not yet due under the contract in question, has been due for less than 31 days, or if such Lien is being contested in accordance with the provisions of the Master Indenture;

(k) such Liens, defects, irregularities of title and encroachments on adjoining property as normally exist with respect to property similar in character to the Property involved and which do not materially adversely affect the value of, or materially impair, the Property affected thereby for the purpose for which it was acquired or is held by the owner thereof, including without limitation statutory liens granted to banks or other financial institutions, which liens have not been specifically granted to secure Indebtedness and which do not apply to Property which has been deposited as part of a plan to secure Indebtedness;

(l) zoning laws and similar restrictions which are not violated by the Property affected thereby;

(m) statutory rights under Section 291, Title 42 of the United States Code, as a result of what are commonly known as Hill-Burton grants, and similar rights under other federal statutes or statutes of the state in which the Property involved is located;

(n) all right, title and interest of the state where the Property involved is located, municipalities and the public in and to tunnels, bridges and passageways over, under or upon a public way;

(o) Liens on or in Property given, granted, bequeathed or devised by the owner thereof existing at the time of such gift, grant, bequest or devise, provided that (i) such Liens consist solely of restrictions on the use thereof or the income therefrom, or (ii) such Liens secure Indebtedness which is not assumed by any Member and such Liens attach solely to the Property (including the income therefrom) which is the subject of such gift, grant, bequest or devise;

(p) Liens of or resulting from any judgment or award, the time for the appeal or petition for rehearing of which shall not have expired, or in respect of which any Member shall at any time in good faith be prosecuting an appeal or proceeding for a review and in respect of which a stay of execution pending such appeal or proceeding for review shall be in existence;

(q) Liens on moneys deposited by patients or others with a Member as security for or as prepayment of the cost of patient care or any rights of residents of life care, elderly

housing or similar facilities to endowment or similar funds deposited by or on behalf of such residents;

(r) Liens on Excluded Property;

(s) Liens on Property due to rights of third party payors for recoupment of excess reimbursement paid;

(t) any security interest in the Rebate Fund, any depreciation reserve, debt service or interest reserve, debt service or any similar fund established pursuant to the terms of any Supplemental Master Indenture, Related Bond Indenture or Related Loan Document in favor of the Master Trustee, a Related Bond Trustee, a Related Issuer or the holder of the Indebtedness issued pursuant to such Supplemental Master Indenture, Related Bond Indenture or Related Loan Document or the holder of any related Commitment Indebtedness;

(u) any Lien on any Related Bond or any evidence of Indebtedness of any Member acquired by or on behalf of any Member which secures Commitment Indebtedness and only Commitment Indebtedness; and

(v) such Liens, covenants, conditions and restrictions, if any, which do not secure Indebtedness and which are other than those of the type referred to above, as are set forth in Exhibit A to this Master Indenture, and which (i) in the case of Property owned by the Corporation on the date of execution of the Master Indenture, do not and will not, so far as can reasonably be foreseen, materially adversely affect the value of the Property currently affected thereby or materially impair the same, and (ii) in the case of any other Property, do not materially impair or materially interfere with the operation or usefulness thereof for the purpose for which such Property was acquired or is held by a Member.

EXHIBIT H-1

PROJECT BUDGET

Women's Center Hard Costs

Concrete	\$3,000
Mechanical Systems	\$980,000
Roof Thermal and Moisture Protection	\$600,000
Doors and Windows	\$325,711
Finishes	\$725,000
Construction Management	\$13,529
General Conditions	\$275,606
Metals	\$25,000
Electrical	\$748,000
Woods and Plastics	\$630,000
Demolition	\$125,000
Hard Cost Contingency	\$139,500
Total- Women's Soft Costs	\$4,590,346

Women's Center Soft Costs

Architecture and Engineering	\$536,411
General Contractor Fee	\$76,100
Artwork Allowance	\$59,150
Equipment	\$1,496,850
Furniture Allowance	\$416,779
Signage Allowance	\$33,450
IT Equipment	\$234,005
Miscellaneous Specialties	\$85,054
Testing	\$60,000
Permits	\$47,741
Contingency	\$381,794
Total- Women's Soft Costs	\$3,427,334

EXHIBIT H-1

PROJECT BUDGET (Continued)

Emergency Department Hard Costs

Elevators and Escalators	\$65,000
Concrete	\$77,000
Mechanical Systems	\$1,600,000
Roof Thermal and Moisture Protection	\$19,650
Doors and Windows	\$450,466
Finishes	\$901,655
Construction Management	\$26,200
General Conditions	\$392,589
Metals	\$34,060
Electrical	\$1,554,000
Woods and Plastics	\$870,000
Demolition	\$336,012
Hard Cost Contingency	\$458,500
Total- Emergency Department Hard Costs	\$6,785,132

Emergency Department Soft Costs

Architecture and Engineering	\$1,080,515
General Contractor Fee	\$138,000
Equipment	\$950,000
Furniture Allowance	\$675,000
Signage Allowance	\$138,330
IT Equipment	\$285,000
Miscellaneous Specialties	\$65,695
Site Survey	\$65,000
Testing	\$35,000
Permits	\$144,454
Overhead Expenses	\$18,000
Total- Emergency Department Soft Costs	\$3,594,994

Total Project Costs **\$18,397,806**

EXHIBIT H-2

MBE/WBE BUDGET

Women's Center- Hard Costs of Rehabilitation		\$ 4,450,846
Women's Center- Soft Costs, Architecture & Engineering		<u>\$ 536,411</u>
Women's Center MBE/WBE Budget		\$4,987,257
Women's Center MBE Total at 24%	\$ 1,196,941	
Women's Center WBE Total at 4%	\$ 199,490	
Emergency Department- Hard Costs of Rehabilitation		\$ 6,326,632
Emergency Department- Soft Costs, Architecture & Engineering		<u>\$ 1,080,515</u>
Emergency Department MBE/WBE Budget		\$7,407,147
Emergency Department MBE Total at 24%	\$ 1,777,715	
Emergency Department WBE Total at 4%	\$ 296,285	
Total MBE/WBE Project Budget		\$12,394,404
Total MBE Total at 24%	\$ 2,974,656	
Total WBE Total at 4%	\$ 495,775	

EXHIBIT I

APPROVED PRIOR EXPENDITURES

[Not Included for Recording.]

EXHIBIT J

OPINION OF DEVELOPER'S COUNSEL

[Not Included for Recording.]

EXHIBIT L
REQUISITION FORM

[Not Included for Recording.]

EXHIBIT M
FORM OF SUBORDINATION AGREEMENT

[Not Included for Recording.]

EXHIBIT N

FORM OF PAYMENT BOND

[Not Included for Recording.]