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Cook County Recorder 75.00



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**AGREEMENT FOR THE  
SALE AND REDEVELOPMENT  
OF LAND**

(The Above Space For Recorder's Use Only)

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This **AGREEMENT** is made on or as of the 11<sup>th</sup> day of June, 2002, by and between the **CITY OF CHICAGO**, an Illinois municipal corporation ("City"), having its principal offices at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 and **ETC PROPERTY MANAGEMENT**, a closely held Illinois Corporation ("Purchaser"), having an address of 763 W. Jackson, Chicago, Illinois 60661, and the **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 399** ("Union"), an Illinois not-for-profit corporation with a usual place of business at 763 W. Jackson Boulevard, Chicago, Illinois 60661, and the **EDUCATION TRUST FUND LOCAL 399** ("Trust"), an Illinois trust with a usual place of business at 763 W. Jackson Boulevard, Chicago, Illinois 60661.

**RECITALS**

**WHEREAS**, the Purchaser desires to purchase from the City the real property legally described on Exhibit A attached hereto ("Property"); and

**WHEREAS**, the Purchaser is a closely held corporation owned 60% by the Union and 40% by the Trust; and

**WHEREAS**, the Union and the Trust jointly control the Purchaser and intend to use the Property for their own purposes once it is purchased by Purchaser; and

**WHEREAS**, the Union and the Trust intend to be bound to the contractual provisions herein as though the Property were owned by each in its own name; and

**WHEREAS**, the Property is currently unimproved and in need of environmental remediation, which the parties intend to perform pursuant to the terms of this Agreement; and

**BOX 333-CT**

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Property of Cook County Clerk's Office

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**WHEREAS**, the Property falls within the boundaries of the Pilsen Tax Increment Financing Project Area, as adopted by Ordinance of the Chicago City Council on June 10, 1998; and

**WHEREAS**, the Union is a trade union which engages in training of individuals in the skills necessary to practice in the trade of Operating Engineering and for membership in the Union itself; and

**WHEREAS**, the Trust is a charitable educational trust existing for the benefit of the Members of the Union; and

**WHEREAS**, the Purchaser, the Union, and the Trust all intend jointly to renovate the Property into a training facility to teach the said trade skills to qualified individuals wishing to enter the trade of Operating Engineering (inclusively "Improvements" or "Project") as more fully described on Exhibit C hereto, and preliminarily shown on the design schematics and plans set forth on Exhibit D attached hereto, and pursuant to final approval of the Improvements by DPD and the Chicago Planning Commission.

**NOW, THEREFORE**, in consideration of the promises and the mutual obligations of the parties hereto, each of them hereby covenant and agree with the other as follows:

## **SECTION 1. INCORPORATION OF RECITALS.**

The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

## **SECTION 2. SALE AND PURCHASE PRICE.**

Subject to the terms, covenants and conditions of this Agreement, the City agrees to sell the Property to the Purchaser, and the Purchaser agrees to purchase the Property from the City for the amount of Eight Hundred Thirty Eight Thousand Eight Hundred Seventy Dollars (\$838,870.00) ("Purchase Price") to be paid by certified check or by such other means as shall be satisfactory to the City.

## **SECTION 3. CONVEYANCE OF PROPERTY.**

1. Form of Deed. The City shall convey to the Purchaser title to the Property by Quitclaim Deed ("Deed"). The conveyance and title shall, in addition to the provisions of this Agreement, be subject to:

1. The standard objections in an ALTA insurance policy.
2. Taxes which are not yet due and owing.

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3. Easements, encroachments, covenants and restrictions of record and not shown of record.
4. Such defects which cannot reasonably be cured but will not affect the use or marketability of the Property.
5. The exceptions set forth on Exhibit B hereto.

2. Title Commitment and Insurance. The City shall provide the Purchaser with a title commitment issued by Chicago Title Insurance Company showing the City in title to the Property. The Purchaser shall be responsible for any title insurance or endorsements it deems necessary.

3. Survey. The City has supplied the Purchaser with a copy of its survey.

4. The Closing. The closing ("Closing") shall take place at the offices of Chicago Title and Trust on June 11, 2002, or on such date and at such place as the parties may mutually agree to in writing.

5. Real Estate Taxes. The City shall obtain the waiver of all delinquent general real estate tax liens, if any, on the Property. The Purchaser shall be responsible for all taxes accruing after the Closing. Until a Certificate of Completion (as described in Section 9, below) is issued by the City, the Purchaser shall notify the City that the real estate taxes have been paid in full within ten (10) days of such payment. If the City is unable to obtain the waiver of any such tax liens to the satisfaction of the Purchaser, either party may terminate this Agreement. Upon such termination, the City shall return the Earnest Money and Performance Deposit (as described in Section 4, below) to the Purchaser.

6. Recordation of Deed. The Purchaser shall promptly file the Deed for recordation with the Office of the Cook County Recorder of Deeds. The Purchaser shall pay all costs for so recording the Deed.

7. Escrow. In the event the Purchaser requires conveyance through escrow, the Purchaser shall pay all escrow fees.

## SECTION 4. EARNEST MONEY AND PERFORMANCE DEPOSIT

- A. Earnest Money. 10%
- B. Performance Deposit. 5% additional deposit
- C. Interest. None

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## SECTION 5. PROJECT BUDGET; PROOF OF FINANCING.

Not less than fourteen (14) days prior to the Closing, the Purchaser shall submit to the City for approval a project budget ("Budget") and evidence of funds adequate to finance the purchase of the Property and the construction of the Improvements. If the Purchaser fails to provide the City with a Budget or proof of financing to the City's reasonable satisfaction, the City may declare this Agreement null and void.

## SECTION 6. APPROVAL OF PLANS, SCHEMATICS, AND DRAWINGS; CHICAGO PLANNING COMMISSIONER APPROVAL; SAFETY MEASURES DURING CONSTRUCTION OF PROJECT; AND UTILITIES, CURB CUTS, AND DRIVEWAYS

- I. DESIGN AND APPROVAL. The Purchaser agrees to construct the Improvements on the Property in accordance with the preliminary drawings/schematics ("Drawings") set forth on Exhibit D hereto. Purchaser acknowledges and agrees that the Drawings are preliminary, and that the final drawings (which shall become the Drawings upon approval) need to be approved by the City's Department of Planning and Development ("DPD") prior to commencement of construction. No material deviation from the Drawings (as the same may be given final approval by DPD) shall be made without the prior written approval of DPD, which approval shall not be unreasonably withheld. The parties further acknowledge and agree as follows:
- 1.) During the construction of the Project, the Purchaser agrees to permit the City and its designees to enter onto the Property for the purpose of determining whether the work is being performed in accordance with the terms of this Agreement; provided however that the City and/or its designees shall use all reasonable efforts during its inspections not to interfere with the Purchaser's activities on the Property in connection with the Project.
- II. CHICAGO PLANNING COMMISSION APPROVAL. The parties agree that within 90 days from the date of Closing, Purchaser shall submit an application to the Chicago Planning Commission for approval of Purchaser's construction plans as set forth on Exhibit D, as the same has been approved by DPD.
- III. CERTAIN SAFETY PRECAUTIONS DURING CONSTRUCTION OF THE PROJECT.
- 1.) Barricades. Prior to the commencement of any construction activity requiring barricades, the Purchaser shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state, and City laws, statutes, ordinances, and regulations. The City shall have the right to approve the maintenance, appearance, color scheme, painting, nature, type, content, and design of all barricades, which approval shall not be unreasonably withheld.

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IV. RELOCATION OF UTILITIES, CURB CUTS, AND DRIVEWAYS. The Purchaser shall be solely responsible for and shall pay all costs in regard to: the relocation, installation or construction of public or private utilities; curb cuts and driveways; the repair or reconstruction of any curbs, sidewalks or parkways deteriorated or damaged as a result of the Purchaser's redevelopment; the removal of existing pipes, utility equipment or building foundations; and the termination of existing water or other services.

## SECTION 7. LIMITED APPLICABILITY.

DPD's approval of the Drawings are for the purposes of this Agreement only and do not constitute the approval required by the City's Building Department or any other City department; nor does the approval by DPD pursuant to this Agreement constitute an approval of the quality, structural soundness or the safety of any improvements located or to be located on the Property. The approval given by DPD shall be only for the benefit of the Purchaser and any lienholder authorized by this Agreement.

## SECTION 8. ENVIRONMENTAL REMEDIATION, COMMENCEMENT AND COMPLETION OF IMPROVEMENTS.

The parties acknowledge and agree that the construction of the Improvements will form an integral part of the environmental remediation necessary to obtain a No Further Remediation ("NFR") Letter from the Illinois Environmental Protection Agency ("IEPA").

The parties further acknowledge and agree that an approved Remedial Objective Report and Remedial Action Plan (ROR/RAP) must be approved by the IEPA prior to development activities, as a prerequisite to commencing the Improvements and obtaining an NFR Letter when the work set forth in the ROR/RAP has been completed. The parties also acknowledge and agree that a Remedial Action Completion Report (RACR) will have to be submitted to the IEPA before it will issue an NFR Letter.

The Purchaser agrees that construction of the Improvements shall commence within 6 months of its receiving approval from the Chicago Planning Commission, and be completed in due course thereafter, but in no event later than July 1, 2004. Within five (5) days from the commencement of construction, the Purchaser shall notify the City that construction has begun.

## SECTION 9. CERTIFICATE OF COMPLETION.

Promptly after completion of the Improvements in accordance with this Agreement, and the issuance of the NFR Letter by the IEPA, the Purchaser shall apply to the City for a Certificate of Completion ("Certificate"). The City shall thereafter inspect the Property and Improvements to determine whether they comply with the terms of this Agreement. If the City determines that they are in compliance, the City shall furnish the Purchaser with a Certificate. The Certificate shall be a conclusive determination of satisfaction and termination of the covenants in this Agreement and the Deed with respect to the obligations of the Purchaser to construct the

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Improvements. The Certificate shall be in recordable form. Within forty-five (45) days after receipt of a written request by the Purchaser for a Certificate, the City shall provide the Purchaser with either the Certificate or a written statement indicating in adequate detail how the Purchaser has failed to complete the Improvements in conformity with the Plan or this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the sole opinion of the City, for the Purchaser to take or perform in order to obtain the Certificate. If the City requires additional measures or acts to assure compliance, the Purchaser shall resubmit a written request for the Certificate upon compliance with the City's response.

## **SECTION 10. CITY ACCESS TO SITE FOR PURPOSES OF ENVIRONMENTAL REMEDIATION WORK**

The Purchaser acknowledges and agrees that the City will be given access at all reasonable and necessary times to the Property for purposes of pursuing and completing the environmental remediation work necessary to obtain a Letter of No Further Remediation from the IEPA, as more fully discussed in Section 2 hereof.

## **SECTION 11. RESTRICTIONS ON USE**

The Purchaser acknowledges and agrees that the Property is bound by the land use plan set forth in the Pilsen Redevelopment Project Area Plan, as described above, which will bind the land uses for the Property until the expiration thereof.

The Purchaser agrees that neither it, nor its successors and/or assigns, shall ever discriminate based upon race, color, religion, sex, national origin or ancestry, military status, sexual orientation, source of income, age, handicap, in the sale, lease, rental, use or occupancy of the Property or any improvements located or to be erected thereon.

## **SECTION 12. PROHIBITION AGAINST TRANSFER OF PROPERTY**

The Purchaser agrees that, for a period of ten years from the issuance of the Certificate of Completion, it shall not do any of the following without the prior written consent of the City: (a) sell or convey the Property or any part thereof; or (b) create any assignment with respect to this Agreement or the Property that would take effect prior to ten years from the date of the issuance of the Certificate by the City; or (c) contract or agree to: (1) sell or convey the Property, or (2) create any assignment with respect to this Agreement or the Property that would take effect prior to ten years from the date of the issuance of the Certificate by the City. If the Property is acquired by a corporation, partnership or other legal entity, there shall be no transfer of ten percent (10%) or more of aggregate interests in the entity to any person not originally a shareholder, partner, member, or other investor in the entity, nor any similar significant change in the constitution of the entity until the ten years from the date the Certificate is issued or the City consents in writing to the transfer or change, which consent shall not be unreasonably withheld. The provisions of this Section 12 shall not limit the Purchaser's rights under Section 13 of this Agreement, nor shall it limit changes in percentage of ownership of the entity to reflect additional

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capital contributions by persons originally a shareholder, partner, member or other investor in the entity.

## SECTION 13. LIMITATION UPON ENCUMBRANCE OF PROPERTY.

Prior to the completion of the Project and the issuance of the Certificate by the City, the Purchaser shall not engage in any financing or other transaction which creates an encumbrance or lien upon the Property, except for the purposes of obtaining: (a) funds necessary to acquire the Property; (b) funds necessary to construct the Improvements; or (c) funds necessary for architects, surveyors, appraisers, environmental consultants or attorneys in connection with the Project.

## SECTION 14. MORTGAGEES NOT OBLIGATED TO CONSTRUCT.

Notwithstanding any other provision of this Agreement or of the Deed, the holder of any mortgage on the Property authorized by Section 13 of this Agreement shall not be obligated to construct or complete the Improvements; provided, however, that the foregoing provision shall not apply to any purchaser, other than the holder of the mortgage, of the Property at a foreclosure sale. Nothing in this section nor in any other section of this Agreement shall be deemed or construed to permit or authorize any such holder of a mortgage to devote the Property to any use, or to construct any improvements thereon, other than those uses or improvements permitted in the Plan.

## SECTION 15. COVENANTS RUNNING WITH THE LAND.

The parties agree, and the Deed shall so expressly provide, that the covenants provided in Sections 6, 8, 10, 11, 12 and 13 shall be covenants running with the land, binding the Purchaser and its successors and assigns to the fullest extent permitted by law and equity for the benefit and in favor of the City, and shall be enforceable by the City. The covenants provided in Sections 6, 8, and 13 shall be terminated upon issuance of the Certificate described in Section 9.

## SECTION 16. PERFORMANCE AND BREACH.

1. Time of the Essence. Time is of the essence in the parties' performance of their obligations under this Agreement.

2. Permitted Delays. The Purchaser shall not be considered in breach of its obligations with respect to the commencement or completion of construction of the Improvements in the event of a delay in the performance of such obligations due to unforeseeable causes beyond the Purchaser's control and without the Purchaser's fault or negligence, including but not limited to, delays or halts in construction of the Improvements which are compelled by court order, acts of God, acts of the public enemy, acts of the United States government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, embargoes and unusually severe weather or delays of subcontractors due to such cause. The time for the performance of the obligations

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shall be extended only for the period of the delay if the Purchaser requests it in writing of the City within twenty (20) days after the beginning of any such delay.

3. Breach Generally. Except as otherwise provided in this Agreement, in the event of a default by either party in the performance of its obligations under this Agreement, the defaulting party, upon written notice from the other, shall cure or remedy the default not later than sixty (60) days after receipt of such notice. If the default is not capable of being cured within the sixty (60) day period but the defaulting party has commenced action to cure the default and is diligently proceeding to cure the default within the sixty (60) day period, then the sixty (60) day period shall be extended for the length of time that is reasonably necessary to cure the default. If the default is not cured in the time period provided for herein, the aggrieved party may terminate this Agreement and institute such proceedings at law or in equity as may be necessary or desirable in its sole discretion to cure and remedy the default, including but not limited to, proceedings to compel specific performance.

- I. Event of Default. For purposes of this Agreement, the occurrence of any one or more of the following shall constitute an "event of default":
- a. The Purchaser fails to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations required under this Agreement; or
  - b. The Purchaser makes or furnishes a warranty, representation, statement or certification to the City which is not true and correct in any material respect; or
  - c. A petition is filed by or against the Purchaser under the Federal Bankruptcy Code or any similar state or federal law, whether now or hereinafter existing, which is not vacated, stayed or set aside within thirty (30) days after filing; or
  - d. The Purchaser abandons or substantially suspends the construction work, and such abandonment or suspension is not cured, ended, or remedied within sixty (60) days of the date the Purchaser receives written demand by the City to cure such default; or
  - e. The Purchaser fails to timely pay real estate taxes or assessments affecting the Property or suffers or permits any levy or attachment, material suppliers' or mechanics' lien, or any other lien or encumbrance unauthorized by this Agreement to attach to the Property; or
  - f. The Purchaser makes an assignment, pledge, encumbrance, transfer or other disposition in violation of this Agreement; or





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- c. any payments made (including attorneys' fees) to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Purchaser; and
- d. any expenditures made or obligations incurred with respect to construction or maintenance of the Improvements; and
- e. any other amounts owed to the City by the Purchaser.

2. Second, to the Purchaser who shall be entitled to receive any proceeds up to the amount of the Purchaser's investment in the Property not utilized in meeting the expenses of the City described herein.

In addition to, and without in any way limiting the City's rights under this Section 16, the City shall have the right to retain the Performance Deposit in the event of a default by the Purchaser.

VI. Waiver and Estoppel. Any delay by the City in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not operate as a waiver of such rights or operate to deprive the City of or limit such rights in any way. No waiver made by the City with respect to any specific default by the Purchaser shall be construed, considered or treated as a waiver of the rights of the City with respect to any other defaults of the Purchaser.

VII. Access to the Property. After the Closing any duly authorized representative of the City shall have access to the Property at all reasonable times for the purpose of confirming the Purchaser's compliance with this Agreement.

## **SECTION 17. CONFLICT OF INTEREST; CITY'S REPRESENTATIVES NOT INDIVIDUALLY LIABLE.**

The Purchaser warrants that no agent, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such agent, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is directly or indirectly interested. No agent, official, or employee of the City shall be personally liable to the Purchaser 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 the Purchaser or successor or on any obligation under the terms of this Agreement.

## **SECTION 18. INDEMNIFICATION**

The Purchaser agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses

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(including, without limitation, attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with: (i) the failure of the Purchaser to perform its obligations under this Agreement; (ii) the failure of the Purchaser or any contractor to pay contractors, subcontractors or material suppliers in connection with the construction of the Improvements; (iii) a material misrepresentation or omission in the Plan which is the result of information supplied or omitted by the Purchaser or by any agents, employees, contractors or persons acting under the control or at the request of the Purchaser; (iv) the failure of the Purchaser to redress any misrepresentations or omissions in this Agreement or any other agreement relating hereto; and (v) any actions resulting from any activity undertaken by the Purchaser on the Property prior to or after the conveyance of said Property to the Purchaser by the City. This indemnification shall survive any termination of this Agreement.

## SECTION 19. ENVIRONMENTAL MATTERS.

The City makes no covenant, representation or warranty as to the environmental condition of the Property or the suitability of the Property for any purpose whatsoever, and the Purchaser agrees to accept the Property "as is".

It shall be the responsibility of the Purchaser, at its sole cost and expense, to investigate and determine the soil and environmental condition of the Property. Prior to the Closing, the Purchaser shall have the right to request a right of entry for the purpose of conducting environmental tests on the Property. If such a request is made, the City shall grant the Purchaser a right of entry for such purpose. The granting of the right of entry, however, shall be contingent upon the Purchaser obtaining all necessary permits and the following types and amounts of insurance: a) commercial general liability insurance with a combined single limit of not less than \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage liability with the City named as an additional insured; b) automobile liability insurance with limits of not less than \$1,000,000.00 per occurrence, combined single limit for bodily injury and property damage; and c) worker's compensation and occupational disease insurance in statutory amounts covering all employees and agents who are to provide any work on the Property. All insurance policies shall be from insurance companies authorized to do business in the State of Illinois, and shall remain in effect until completion of all activity on the Property. The Purchaser shall deliver duplicate policies or certificates of insurance to the City prior to commencing any activity on the Property. The Purchaser expressly understands and agrees that any coverage and limits furnished by the Purchaser shall in no way limit the Purchaser's liabilities and responsibilities set forth in this Agreement.

The Purchaser agrees to carefully inspect the Property prior to the commencement of any activity on the Property to make sure that such activity shall not damage surrounding property, structures, utility lines or any subsurface lines or cables. The Purchaser shall be solely responsible for the safety and protection of the public. The City reserves the right to inspect any work being done on the Property. The Purchaser's activities on the Property shall be limited to those reasonably necessary to perform the environmental testing. Upon completion of the work, the Purchaser agrees to restore the Property to its original condition. The Purchaser shall keep the

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Property free from any and all liens and encumbrances arising out of any work performed, materials supplied or obligations incurred by or for the Purchaser, and agrees to indemnify and hold the City harmless against any such liens.

The Purchaser agrees to deliver to the City a copy of each report prepared by or for the Purchaser regarding the environmental condition of the Property. If prior to the Closing, the Purchaser's environmental consultant determines that contamination exists on the Property to such an extent that the parties agree that the estimated cost of remediation (as determined by the consultant) is too excessive for the Purchaser, the Purchaser may declare this Agreement null and void. In such event, the City shall return the Earnest Money and Performance Deposit to the Purchaser. The Purchaser agrees that a request to terminate this Agreement shall not be made until all reports concerning the condition of the Property have been reviewed by the City. The City agrees that the time it spends reviewing the reports concerning the condition of the Property shall not be cause to find the Purchaser untimely in performing those obligations for which time is of the essence under the terms of this Agreement, including the date of closing.

If after the Closing, the environmental condition of the Property is not in all respects entirely suitable for the use to which the Property is to be utilized pursuant to the terms of this Agreement, it shall be the sole responsibility and obligation of the Purchaser to take such action as may be necessary to put the Property in a condition entirely suitable for the intended use of the Property. The Purchaser agrees to release and indemnify the City from any claims and liabilities relating to or arising from the environmental condition of the Property and to undertake and discharge all liabilities of the City arising from any environmental condition which existed on the Property prior to the Closing.

## SECTION 20. PURCHASER'S EMPLOYMENT OBLIGATIONS.

A. Employment Opportunity. The Purchaser agrees, and shall contractually obligate its various contractors, subcontractors or any affiliate of the Purchaser operating on the Property (collectively, the "Employers" and individually, an "Employer") to agree that with respect to the provision of services in connection with the construction of the Improvements or occupation of the Property:

1. Neither the Purchaser nor any 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, Section 2-160-010 *et seq.* of the Municipal Code of Chicago, as amended from time to time (the "Human Rights Ordinance"). The Purchaser and 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-

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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. The Purchaser and 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 Purchaser and each Employer, 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.

2. To the greatest extent feasible, the Purchaser and each Employer is required to present opportunities for training and employment of low and moderate income residents of the City; and to provide that contracts for work in connection with the construction of the Improvements be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the City.
3. The Purchaser and 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 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.
4. The Purchaser, 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.
5. The Purchaser and each Employer shall include the foregoing provisions of subparagraphs 1 through 4 in every contract entered into in connection with the construction of the Improvements, 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.
6. Failure to comply with the employment obligations described in this Section 20.A. shall be a basis for the City to pursue remedies under the provisions of Section 16, above.

B. City Resident Employment Requirement. The Purchaser agrees, and shall contractually obligate the Employers to agree that during the construction of the Improvements they shall comply with the minimum percentage of total worker hours performed by actual residents of the City of Chicago as specified in Section 3-92-330 of the Municipal Code of Chicago

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(at least fifty percent of the total worker hours worked by persons on the construction of the Improvements shall be performed by actual residents of the City of Chicago); provided, however, that in addition to complying with this percentage, the Purchaser and the Employers shall be required to make good faith efforts to utilize qualified residents of the City of Chicago in both unskilled and skilled labor positions.

The Purchaser and the Employers 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 of Chicago in accordance with standards and procedures developed by the Purchasing Agent of the City of Chicago.

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

The Purchaser and the Employers shall provide for the maintenance of adequate employee residency records to ensure that actual Chicago residents are employed on the construction of the Improvements. The Purchaser and the Employers 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 Department 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 company hired the employee should be written in after the employee's name.

The Purchaser and the Employers shall provide full access to their employment records to the Purchasing Agent, the Department, the Superintendent of the Chicago Police Department, the Inspector General, or any duly authorized representative thereof. The Purchaser and the Employers shall maintain all relevant personnel data and records for a period of at least three (3) years from and after the issuance of the Certificate.

At the direction of the Department, the Purchaser and the Employers shall provide affidavits and other supporting documentation to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of the Purchaser and the Employers to provide work for actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Purchasing Agent) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

In the event that the City has determined that the Purchaser or an Employer failed to ensure the fulfillment of the requirements of this Section concerning the worker hours performed by

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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 which has not been remedied in accordance with the breach and cure provisions contained in Section 16.C herein, it is agreed that 1/20 of 1 percent (.05%) of the aggregate hard construction costs set forth in the Purchaser's budget shall be surrendered by the Purchaser and for the Employers 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 the Purchaser and/or the other Employers or employee to prosecution.

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.

The Purchaser shall cause or require the provisions of this Section 20.B. to be included in all construction contracts and subcontracts related to the construction of the Improvements.

C. The Purchaser's MBE/WBE Commitment. The Purchaser agrees, and shall contractually obligate the Employers to agree, that during the construction of the Improvements:

1. Consistent with the findings which support the Minority-Owned and Women Owned Business Enterprise Procurement Program (the "MBE/WBE" Program"), Section 2-92-420 et seq. of the Municipal Code of Chicago, 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 20.C., during the course of construction of the Improvements, at least the following percentages of the aggregate hard construction costs shall be expended for contract participation by minority-owned businesses ("MBEs") and by women-owned businesses ("WBEs"):
  - a. At least 25% by MBEs.
  - b. At least 5% by WBEs.
2. For purposes of this Section 20.C. only, the Purchaser (and any party to whom a contract is let by the Purchaser pursuant to this Agreement) shall be deemed a "Contractor" and this Agreement (and any contract let pursuant thereto) shall be deemed a "Contract" as such terms are defined in Section 2-92-420 of the Municipal Code of Chicago. In addition, the term "minority-owned business" or MBE shall mean a business enterprise identified in the Directory of Certified Minority Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a minority-owned business enterprise; and the term "women-owned business" or WBE shall mean a business enterprise identified in the Directory of Certified Women Business

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Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a women-owned business enterprise.

3. Consistent with Section 2-92-440 of the Municipal Code of Chicago, the Purchaser's MBE/WBE commitment may be achieved by the Purchaser utilizing a MBE or a WBE as a contractor, by subcontracting or causing a contractor to subcontract a portion of the work to one or more MBEs or WBEs, or by the purchase of materials used in the construction of the Improvements 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 the Purchaser's MBE/WBE commitment as described in this Section 20.C.
4. The Purchaser shall deliver quarterly reports to the Department 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 the Purchaser or a contractor to work on the Improvements, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the construction, 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 Department in determining the Purchaser's compliance with this MBE/WBE commitment. The Department shall have access to the Purchaser's books and records, including, without limitation, payroll records and tax returns, to allow the City to review the Purchaser's compliance with its commitment to MBE/WBE participation.
5. The City shall have the right to terminate this Agreement upon the disqualification of a contractor as a MBE or WBE, if the contractor's status as a MBE or WBE was a factor in the approval of the Purchaser, and such status was misrepresented by the contractor or the Purchaser. In addition, the City shall have the right to terminate this Agreement upon the disqualification of any MBE or WBE subcontractor or supplier of goods or services if the subcontractor's status as a MBE or WBE was a factor in the approval of the Purchaser, and such status was misrepresented by the contractor or the Purchaser. In the event that the Purchaser is determined not to have been involved in any misrepresentation of the status of the disqualified contractor, subcontractor or supplier, the Purchaser shall be obligated to discharge or cause to be discharged the disqualified contractor or subcontractor or to terminate any contract or business with the disqualified supplier, and, if possible, identify a qualified MBE or WBE as a replacement. Failure by the Purchaser to diligently pursue such course of action will result in the City's option to unilaterally terminate this Agreement. For purposes of this subparagraph 5, the disqualification procedures are further described in Section 2-92-540 of the Municipal Code of Chicago.

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6. Any reduction or waiver of the Purchaser's MBE/WBE commitment as described in this Section 20.C. shall be undertaken in accordance with Section 2-92-450 of the Municipal Code of Chicago.

D. Pre-Construction Meeting; Monitoring Requirements. Prior to the commencement of construction of the Improvements, the Purchaser shall meet with the monitoring staff of the Department with regard to the Purchaser's compliance with its employment obligations, the sufficiency of which must be approved by the Department as a pre-condition to the Department's approval to allow the Purchaser to commence with the construction of Improvements. During the construction of the Improvements, the Purchaser shall submit documentation (as required in Sections 20.A. and 20.C., above) to the monitoring staff of the Department. The failure to submit such documentation on a timely basis, or if the Department determines, upon analysis of the documentation, that the Purchaser is not complying with its employment obligations described in this Section 20, shall upon the delivery of written notice to, be deemed a default. In such event, in addition to any remedies described in this Section 20, the City may: (1) issue a written demand to the Purchaser to halt construction of Improvements; (2) withhold certain pertinent sums from payment to the Purchaser or the general contractor, if applicable; or (3) seek any other remedies against the Purchaser available at law or in equity.

E. Default under this Section. In the event of a default by the Purchaser in the performance of its obligations under this Section 20, the notice and cure provisions contained in Section 16 herein shall apply.

## **SECTION 21. PROVISIONS NOT MERGED WITH DEED.**

The provisions of this Agreement shall not be merged with the Deed, and the delivery of the Deed shall not be deemed to affect or impair the provisions of this Agreement.

## **SECTION 22. HEADINGS.**

The headings of the various sections of this Agreement have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending, or affecting in any way the express terms and provisions thereof.

## **SECTION 23. GOVERNING LAW.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

## **SECTION 24. ENTIRE AGREEMENT.**

This Agreement constitutes the entire agreement between the parties and supersedes and replaces completely any prior agreements between the parties with respect to the subject matter

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hereof. This Agreement may not be modified or amended in any manner other than by supplemental written agreement executed by the parties.

## SECTION 25. SEVERABILITY.

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

## SECTION 26. NOTICES.

Any notice, demand or communication required or permitted to be given hereunder shall be given in writing at the addresses set forth below by any of the following means: (a) personal service; (b) electronic communications, whether by telex, telegram or telecopier; (c) overnight courier; or (d) registered or certified first class mail, postage prepaid, return receipt requested:

If to the City:

City of Chicago  
Department of Planning and Development  
121 North LaSalle Street  
Room 1000 - City Hall  
Chicago, Illinois 60602  
Attn: Commissioner of Planning  
Fax: 312-744-7996

with a copy to:

City of Chicago  
Department of Law - Real Estate  
30 North LaSalle Street, Suite 1610  
Chicago, Illinois 60602  
Att: Chief, Real Estate and Land Use Division  
Fax: 312-742-0277

If to the Purchaser:

ETC Property Management  
763 W. Jackson Street  
Chicago, Illinois 60661  
Attn: Thomas R. Howard

with a copy to:

Alan Bruggeman  
Bruggeman, Hurst & Associates  
400 East Lincoln Highway  
New Lenox, Illinois 60451

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Any notice, demand or communication given pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means, respectively. Any notice, demand or communication given pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier. Any notice, demand or communication sent pursuant to clause (d) shall be deemed received three (3) business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given.

## SECTION 27. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which shall constitute an original instrument.

## SECTION 28. ORGANIZATION AND AUTHORITY.

The Purchaser represents and warrants that it is a duly organized and validly existing Corporation under the laws of the State of Illinois, with full power and authority to acquire, own and redevelop the Property, and that the person(s) signing this Agreement on behalf of the Purchaser has the authority to do so. The Union represents that it is a duly organized and validly existing not-for-profit Corporation under the laws of the State of Illinois, with full power and authority to acquire, own and redevelop the Property, and that the person(s) signing this Agreement on behalf of the Union has the authority to do so. The Trust represents that it is a duly organized and validly existing Trust under the laws of the State of Illinois, with full power and authority to acquire, own and redevelop the Property, and that the person(s) signing this Agreement on behalf of the Trust has the authority to do so.

## SECTION 29. SUCCESSORS AND ASSIGNS.

Except as otherwise provided in this Agreement, the terms and conditions of this Agreement shall apply to and bind the successors and assigns of the parties.

## SECTION 30. TERMINATION.

In the event that the Closing has not occurred within twelve (12) months from the date of this Agreement, either party may terminate this Agreement upon written notice to the other. If the reason for the failure to close was not due to fault of the City, then the City may retain the Earnest Money as liquidated damages. Otherwise, upon such termination, the City shall return the Earnest Money to the Purchaser. In each case the City shall return the Performance Deposit to the Purchaser.

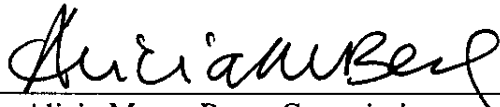
## SECTION 31. RECORDATION OF AGREEMENT.

This Agreement shall be recorded at the Office of the Cook County Recorder of Deeds. The costs of recording shall be borne by the Purchaser.

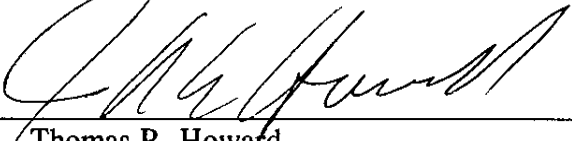
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IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Commissioner of Planning and Development, and the Purchaser, the Union, and the Trust have each signed the same on or as of the day and year first above written.

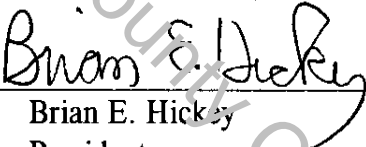
**CITY OF CHICAGO,**  
an Illinois municipal corporation

BY:   
Alicia Mazur Berg, Commissioner  
Department of Planning and Development

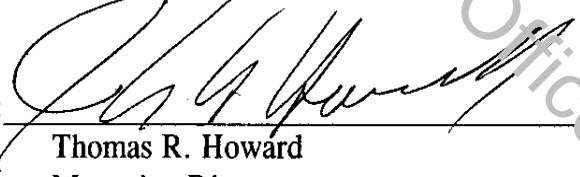
**ETC PROPERTY MANAGEMENT,** an Illinois Corporation

By:   
Thomas R. Howard  
President

**INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 399,** an Illinois Corporation

By:   
Brian E. Hickey  
President

**EDUCATION TRUST FUND LOCAL 399,**  
an Illinois Trust

By:   
Thomas R. Howard  
Managing Director

*MAIL TO:*

This instrument was prepared by:  
Michael P. Klein  
Assistant Corporation Counsel  
Real Estate and Land Use Division  
30 No. LaSalle Street, Suite 1610  
Chicago, Illinois 60602  
(312) 744-1806







EXH A.T "A"  
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STREET ADDRESS: 2230 48 SOUTH GROVE STREET

CITY: CHICAGO

COUNTY: COOK

TAX NUMBER: 17-28-103-008-0000, 17-28-103-011-0000, 17-28-103-012-0000

**LEGAL DESCRIPTION:**

THAT PART OF LOTS 3 THROUGH 15, BOTH INCLUSIVE, IN SOUTH BRANCH ADDITION TO CHICAGO, IN SECTION 28, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PLAT BEING ANTE-FIRE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE BOUNDARY LINE BETWEEN SAID LOTS 3 AND 4 WITH THE NORTHWESTERLY LINE OF GROVE STREET; THENCE NORTH 25 DEGREES 48 MINUTES 29 SECONDS EAST ALONG SAID NORTHWESTERLY LINE OF SAID GROVE STREET 22.31 FEET; THENCE NORTH 63 DEGREES 46 MINUTES 24 SECONDS WEST ALONG A LINE PASSING THROUGH THE MOST SOUTHERLY POINT OF THE MOST SOUTHERLY PILASTER OF THE SOUTHERLY WALL OF A GARAGE WAREHOUSE BUILDING OF SAID LOT 3, A DISTANCE OF 227.64 FEET TO THE EASTERLY LINE OF THE SANITARY DISTRICT OF CHICAGO PROPERTY AS DESCRIBED IN WARRANTY DEED RECORDED JULY 24, 1904, AS DOCUMENT NUMBER 3571373, SAID INTERSECTION BEING 24 FEET 4 1/4 INCHES NORTH OF THE BOUNDARY LINE BETWEEN SAID LOTS 3 AND 4; THENCE SOUTH 27 DEGREES 20 MINUTES 48 SECONDS WEST ALONG SAID EAST LINE AND THE EAST LINE OF PREMISES CONVEYED BY WARRANTY DEED RECORDED DECEMBER 20, 1904, AS DOCUMENT NUMBER 3634733, A DISTANCE OF 123.42 FEET; THENCE SOUTH 30 DEGREES 50 MINUTES 35 SECONDS WEST ALONG SAID EAST LINE AND THE EAST LINE OF PREMISES CONVEYED BY WARRANTY DEED RECORDED OCTOBER 3, 1902, AS DOCUMENT NUMBER 3302651, A DISTANCE OF 506.31 FEET TO THE SOUTHWESTERLY LINE OF SAID LOT 15; THENCE SOUTH 45 DEGREES 20 MINUTES 11 SECONDS EAST ALONG SAID SOUTHWESTERLY LINE 257.51 FEET TO THE SOUTHERLY MOST CORNER OF SAID LOT 15; THENCE NORTH 58 DEGREES 17 MINUTES 49 SECONDS EAST ALONG THE SOUTHEASTERLY LINE OF SAID LOT 15, A DISTANCE OF 59.00 FEET TO THE EASTERLY MOST CORNER OF SAID LOT 15; THENCE NORTH 25 DEGREES 48 MINUTES 29 SECONDS EAST 637.22 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Cook County Clerk's Office

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## EXHIBIT B

### PERMITTED TITLE EXCEPTIONS

To be determined by the parties prior to conveyance, subject to the review and approval of the Corporation Counsel.

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## EXHIBIT C

### NARRATIVE DESCRIPTION OF PROJECT

#### **Redevelopment Work Required by the Redevelopment Agreement**

The Project requires that the Purchaser build a union-run trade skills training facility for the International Union of Operating Engineers. The facility shall be in a style consistent with the depiction attached hereto as Exhibit D, as the same is further approved by DPD and the Chicago Planning Commission.

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## EXHIBIT D

### DRAWINGS, SCHEMATICS, DEPICTIONS

See Attached Pages of Schematics  
(Marked as Exhibit D Page 1 and Page 2)

And

Page of Exterior Depiction (Marked as Exhibit D Page 3)

Property of Cook County Clerk's Office

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