


# UNOFFICIAL COPY

This instrument was prepared by:  
and after recording, should be returned to:

Pamela Cash  
Senior Assistant General Counsel  
Chicago Housing Authority  
Office of the General Counsel  
60 E. Van Buren St., 12<sup>th</sup> Floor  
Chicago, Illinois 60605  
41044523 (14-0F44)

  
\*2001718079\*  
Doc# 2001718079 Fee \$98.00  
RHSP FEE: \$9.00 RPRF FEE: \$1.00  
EDWARD H. MOODY  
COOK COUNTY RECORDER OF DEEDS  
DATE: 01/17/2020 04:53 PM PG: 1 OF 21

## CONTROL AGREEMENT

BETWEEN

CHICAGO HOUSING AUTHORITY,

SOUTHBRIDGE 9 MASTER OWNER LLC

AND

SOUTHBRIDGE 1-9 HOUSING LLC

Property of Cook County Clerk's Office

S Y  
P el  
S 2  
M \_\_\_\_\_  
CC \_\_\_\_\_  
M \_\_\_\_\_  
SB

# UNOFFICIAL COPY

## CHA CONTROL AGREEMENT

**THIS CHA CONTROL AGREEMENT** (this “**Agreement**”), dated and effective as of January 16, 2020, is made by and between **Chicago Housing Authority**, an Illinois municipal corporation (the “**Authority**”), **Southbridge 9 Master Owner LLC**, an Illinois limited liability company (the “**Master Owner**”) and **Southbridge 1-9 Housing LLC**, an Illinois limited liability company (“**Affordable Tenant**”). Master Owner and Affordable Tenant are collectively referred to herein as “**Owner**”.

### RECITALS

A. The Authority is the owner of land that was the former site of a public housing development commonly known as Harold Ickes Homes (the “**Ickes Homes**”) and is currently designated by the United States Department of Housing and Urban Development (“**HUD**”) as PIC Development No. 1L002002000. The Master Owner intends to develop a multi-family residential rental, commercial and retail development consisting of a total of one hundred three (103) residential dwelling units, approximately 5,600 square feet of commercial and retail space and related improvements to be known as Southbridge Phase 1B (the “**Development**”) on a portion of Ickes Homes located on a leasehold estate in the land described on **Exhibit A** attached hereto and made a part hereof (the “**Land**”). The buildings on the Land are hereinafter collectively referred to as the “**Buildings**”.

B. The Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011; 42 U.S.C. 1437f(o)(13)) (as heretofore or hereafter amended, the “**RAD Act**”), authorized the Rental Assistance Demonstration (“**RAD**”) program (the “**RAD Program**”), which for RAD projects using project-based voucher (“**PBV**”) assistance follow 24 CFR 983 (as heretofore or hereafter amended, the “**PBV Regulations**”). Subsequently, HUD issued PIH Notice 2012-32 published on July 26, 2012, and amended by PIH 2012-32 Rev. 2 on June 10, 2015, Rev 3 on January 12, 2017 and Rev 4 on September 5, 2019 (the “**RAD Notice**”). Under the RAD Program, public housing authorities can convert funding for public housing units to PBV assistance.

C. The Authority desires that the Development be redeveloped into a mixed-income development. To that end, the Authority has applied to HUD to transfer RAD assistance from Altgeld Gardens 1 public housing and create thirty-four (34) RAD PBV units (“**RAD Units**”) for Southbridge Phase 1B.

D. The Development will consist of forty-three (43) units leased by the Owner to persons and families who qualify as eligible tenants for Low-Income Housing Tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, of which thirty-four (34) will be RAD Units and sixty (60) market rate units. The Owner has designated the addresses listed on **Exhibit C**, attached hereto and made a part hereof, as the initial RAD Units, however, during the term of the RAD HAP Contract (hereinafter defined), the RAD Units will be allowed to float among all of the units in the Development, in a manner that complies with All Applicable RAD Requirements (hereinafter defined).

# UNOFFICIAL COPY

E. Upon construction completion of the Development, Master Owner will enter into a Leasehold Declaration of Condominium Ownership and Easements, Restrictions, Covenants and By-Laws and submit the Development constructed on the leasehold estate to the provisions of the Illinois Condominium Property Act (765 ILCS 605) in order to create a seven-unit leasehold condominium to be known as The Southbridge 1-9 Condominium Association which will include: 1) five (5) condominium units (collectively, the “Residential Affordable Unit”) consisting of forty-three (43) affordable units, including the thirty-four (34) RAD units; 2) one (1) condominium unit (the Residential Market Unit”) consisting of sixty (60) market rate residential units; and 3) one (1) condominium unit (the “Commercial Unit”) consisting of approximately 5,600 square feet of commercial space. The Master Owner will lease the Residential Affordable Unit to the Affordable Tenant pursuant to a Master Lease Agreement entered into concurrently with this Agreement. During the term of the Master Lease Agreement, Affordable Tenant will be considered the owner of the Residential Affordable Unit and shall receive the housing assistance payments under the RAD HAP Contract (as defined in paragraph E of the Recitals below).

F. The Authority has submitted to HUD, a RAD application and financing plan, including the Master Owner’s plan to finance the new construction of the Development using a combination of public and private sources, which have been approved by HUD. HUD and the Authority have entered into a Rental Conversion Commitment (“RCC”) for the RAD Units as provided in the RAD Act, and HUD has issued, and the Authority has accepted, a Commitment to Enter into a Housing Assistance Payments Contract (“CHAP”) for the RAD Units.

G. In connection with the conversion of the Development, concurrently herewith, among other things: (1) the Authority is entering into a ninety-nine (99) year ground lease to create a leasehold estate in the Land (the “Ground Lease”) and the initial tenant’s interest under the ground lease is being assigned to the Master Owner; (2) the Master Owner, the Affordable Tenant and the Authority are entering into a Rental Assistance Demonstration Use Agreement (the “RAD Use Agreement”) with the Secretary of Housing and Urban Development (the “Secretary”) with respect to the RAD Units; and (3) the Authority, in its capacity as contract administrator (in such capacity, the “HAP Contract Administrator”), the Master Owner and the Affordable Tenant are entering into a Project-Based Voucher Rental Assistance Demonstration Housing Assistance Payments Contract with respect to the RAD Units (as it may hereafter be amended, the “RAD HAP Contract”).

H. Following the execution of this Agreement, the Authority shall be in control of and will be performing various activities and providing various services in connection with the RAD Units and the Development, as more particularly described on **Exhibit B** attached hereto and made a part hereof.

I. It is a condition of HUD’s approval of the redevelopment of the Development, as described above, and All Applicable RAD Requirements, that the Authority preserve its interest in the Development, which is being accomplished, in part, by the provisions of this Agreement. It is a condition of the Authority’s willingness to proceed with that redevelopment that the Owner enter into this Agreement.

# UNOFFICIAL COPY

NOW, THEREFORE, the parties agree as follows:

1. **Recitals.** The foregoing preambles and recitations are, by this reference, incorporated into the body of this Agreement.

2. **Duration of this Agreement.** The provisions of this Agreement shall remain in effect for so long as a RAD HAP Contract, or a similar HAP Contract, is in effect with respect to the RAD Units or any of them. The Owner acknowledges and agrees that, under the RAD Act, upon the expiration of the initial RAD HAP Contract, and each renewal RAD HAP Contract, the Owner must accept a renewal of such contract, subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal.

3. **Additional Definitions.**

“ACC” shall mean the Consolidated Annual Contributions Contract(s), including all relevant amendments, pursuant to which HUD provides funding to the CHA for the administration, management and operation of the Section 8 Program including the converting RAD units within the Development.

“Administrative Plan” shall mean Chicago Housing Authority’s FY2019 Administrative Plan for the Housing Choice Program, as may be amended from time to time.

“All Applicable RAD Requirements” means all requirements of the RAD Program that are applicable to the Authority with respect to the RAD Units or to the owner from time to time of the RAD Units, including, without limitation, the requirements under the RAD Act, the PBV Regulations, the RAD Use Agreement, the RAD HAP Contract, and all related HUD directives and administrative requirements, including, without limitation, those contained in the RAD Notice, except to the extent HUD has granted waivers of those requirements, the ACC, the Administrative Plan, the Gautreaux Court Orders, and the MTW Agreement.

“City” mean the City of Chicago, an Illinois municipal corporation.

“Development” shall have the meaning set forth in the Recitals.

“First Mortgage Lender” shall mean (i) Citibank, N.A., a national banking association, its successors and/or assigns for so long as its construction loan to Master Owner is outstanding and (ii) Illinois Housing Development Authority, a body politic and corporate established pursuant to the Illinois Housing Development Act, its successors and/or assigns for so long as its permanent loan to Master Owner is outstanding.

“Gautreaux Court Orders” shall mean applicable orders of the United States District Court for the Northern District of Illinois relating to Gautreaux vs. CHA et al., Case Nos. 66 C 1459 and 1460 (Note: Gautreaux v. CHA et. al., No. 66 C 1460, and the consent decree thereunder was terminated in 1997).

# UNOFFICIAL COPY

“**General Contractor**” shall mean McShane Powers Joint Venture, an Illinois joint venture partnership.

“**Governing Document**” shall mean that certain Amended and Restated Operating Agreement of the Affordable Tenant among Southbridge 1 Housing MM LLC, an Illinois limited liability company as the Managing Member of Affordable Tenant and GS Southbridge 9% Investor Opportunity Fund LP, a Delaware limited partnership as Investor Member.

“**Investor**” shall mean GS Southbridge 9% Investor Opportunity Fund LP, a Delaware limited partnership.

“**MTW Agreement**” shall mean that certain Amended and Restated Moving to Work Demonstration Agreement between CHA and HUD, dated June 26, 2008, and the 1st through 7th amendments to the Amended and Restated Moving to Work Demonstration Agreement, as may be hereinafter amended.

“**Qualified RAD Units**” shall have the meaning set forth in Section 12(b).

“**RAD PILOT Payment**” shall have the meaning set forth in Section 12(b).

“**RAD Units**” shall have the meaning set forth in the Recitals

“**Subordinate Loan Agreement**” shall mean that certain Chicago Housing Authority Loan Agreement between the Authority and Master Owner dated as of the 16<sup>th</sup> day of January, 2020, in the amount of Ten Million Three Hundred Ninety Thousand and no/ 100 Dollars (\$10,390,000.00).

**4. Binding on Subsequent Owners.** The provisions of this Agreement shall be binding upon the Owner and its successors and assigns, including each owner from time to time of the Development or any portion thereof.

**5. General Obligations.** The Owner acknowledges and agrees that:

- (a) The Owner is obligated to abide by and perform All Applicable RAD Requirements which pertain to the owner of any RAD Unit.
- (b) The Authority will maintain and administer the waiting list for the RAD Units. No RAD Unit may be leased to a tenant or tenants other than those that CHA refers to the Owner or the Owner’s property manager in accordance with All Applicable RAD Requirements.
- (c) The Authority has approved The Habitat Company LLC, an Illinois limited liability company, as the property manager for the Development. No other person or entity may act as property manager for the Development without the prior written consent of the Authority.

# UNOFFICIAL COPY

- (d) The Owner is obligated to maintain each of the RAD Units in a condition that complies with HUD's Uniform Property Compliance Standards ("UPCS") or such other inspection standards acceptable to the Authority and HUD, and that the Authority, in its capacity as HAP Contract Administrator, has the right to inspect the RAD Units.

## 6. Reserves.

(a) **Replacement Reserve.** The Owner is obligated under the RAD HAP Contracts and the Affordable Tenant is obligated under the Governing Document to cause the Master Owner to make periodic deposits into a reserve fund for replacements (the "**Replacement Reserve**") with respect to the Development. No funds may be withdrawn from the Replacement Reserve without the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed. In the event of the disposition of the Development or the dissolution of the Owner, any funds in the Replacement Reserve shall be transferred to the new owner or otherwise continue to be used in connection with the Development in accordance with All Applicable RAD Requirements.

(b) **Operating Deficit Reserve.** In accordance with Section 8.21 of the Governing Document, the Affordable Tenant shall establish and maintain an operating reserve for operating deficits (the "**Operating Deficit Reserve**") in the initial amount of \$216,805. The Operating Deficit Reserve will be established and owned by the Affordable Tenant and/or Master Owner. The Affordable Tenant and Master Owner covenants to the Authority to use all withdrawals from the Operating Deficit Reserve Account only for purposes relating to the Development, which may include the repayment of the Subordinate Loan upon disposition of the Development or expiration of the RAD HAP Contracts.

7. **Disposition.** The Owner shall not demolish or dispose of its interest in the Development or the RAD Units (including, without limitation, by conveyance or lease not in the ordinary course of business of the RAD Units), without the prior written approval of the Authority and HUD and except in accordance with All Applicable RAD Requirements.

8. **Transfers of Interests in Owner.** The Owner shall not, without prior written approval of the Authority, make any transfers requiring HUD approval pursuant to Section 21 of the RAD HAP Contract.

Owner is not permitted to sell or transfer its interest in the commercial and retail space without the written approval of the Authority. Owner shall have the right to make initial contact with a prospective tenant of the commercial and/or retail space and negotiate initial leasing terms. Prior to finalizing any leasing terms and entering into a lease agreement, Owner shall notify the Authority in writing of its interest in leasing commercial and/or retail space to a prospective tenant pursuant to Section 15(e) below and by emailing to the Authority's Chief Development Officer a prospective commercial/retail tenant form which shall include the name of the business, the type of business, the date of initial contact and preliminary leasing terms. The Authority shall have fifteen (15) days to reasonably determine the Authority's approval or disapproval of the prospective commercial/retail tenant and shall provide Owner of its decision in writing pursuant



# UNOFFICIAL COPY

to Section 15(e) below and by email. The Authority's failure to provide Owner with its written approval or disapproval of a prospective tenant of the commercial/retail space within fifteen (15) days of its proper receipt of notification by Owner shall be deemed as the Authority's approval of such prospective tenant and Owner may proceed with finalizing all leasing terms and executing a lease agreement. If the Authority disapproves of the prospective tenant in accordance with this Section 8, Owner shall promptly notify prospective tenant and cease all negotiations.

**9. Non-Discrimination and Other Federal Requirements.** The Owner shall comply with all applicable requirements of the following, as the same may be amended from time to time:

(a) the Fair Housing Act, 42 U.S.C. 3601-19, and regulations issued thereunder, 24 CFR Part 100; Executive Order 11063 (Equal Opportunity in Housing) and regulations issued thereunder, 24 CFR Part 107; the fair housing poster regulations, 24 CFR Part 110, and applicable advertising guidelines;

(b) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and regulations issued thereunder relating to non-discrimination in housing, 24 CFR Part 1;

(c) the Age Discrimination Act of 1975, 42 U.S.C. 6101-07, and regulations issued thereunder, 24 CFR Part 146;

(d) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and regulations issued thereunder, 24 CFR Part 8; the Americans with Disabilities Act, 42 U.S.C. 12181-89, and regulations issued thereunder, 28 CFR Part 36;

(e) Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and its implementing regulations at 24 CFR Part 135; and

(f) Wage rates under the Davis-Bacon Act (40 U.S.C. § 276a *et seq.*) to the extent applicable.

**10. Financial Statements and Reports and Maintenance of Records.**

(a) Quarterly Statements. Not later than ninety (90) days after the end of each successive quarterly period, commencing with the calendar quarter in which the first RAD Unit is available for occupancy, the Owner shall deliver to the Authority itemized statements of income and expenses, prepared on an accrual basis, based on the Owner's general accounting records, in form substantially comparable to "Statement of Profit and Loss" (formerly Form HUD-92410), or any successor thereto, certified by the general partner/manager/chief financial officer of the Owner, for the quarterly period and from the beginning of the calendar year to the end of such quarterly period. Such quarterly statements shall be supplemented by such additional quarterly financial information as may be reasonably requested by the Authority.

(b) Annual Financial Statements. Not later than one hundred and twenty (120) days after the end of each calendar year, the Owner shall deliver to the Authority a copy of the independently audited financial statements of the Owner for such year and the period then ended, prepared in accordance with generally accepted accounting principles and accompanied by the

# UNOFFICIAL COPY

report of independent public accountants thereon, together with a copy of any additional financial statements or reports delivered by the Owner to its partners/members. If, after thirty (30) days written notice from the Authority, the Owner shall fail to deliver such financial statements to the Authority, the Authority shall have the right to retain an independent auditor to conduct an audit of the financial statements of the Owner and to charge the reasonable cost thereof to the Owner.

(c) **Maintenance of Records.** The Authority shall remain responsible for maintaining sufficient records, and taking necessary action(s), to assure HUD that all Authority obligations to HUD under All Applicable RAD Requirements are fulfilled. However, where the ACC or other All Applicable RAD Requirements require the Authority to furnish reports, records, statements, certificates, documents or other information to HUD regarding the RAD Units, the Owner shall furnish such reports, records, statements, certificates, documents or other information to the Authority or otherwise satisfy the Authority's requests with respect to such matters, upon reasonable notice. Nothing contained in this Section shall be construed to relieve the Owner of its obligation to maintain its own books and records. It shall be the responsibility of the Owner to maintain sufficient records, and to take necessary action(s), to assure compliance with all obligations relating to the RAD Units under All Applicable RAD Requirements.

**11. CHA Asset Management Fee.** The Owner acknowledges and agrees that the services and activities provided by the Authority in general, as a public housing authority, and in neighborhoods surrounding the Development (such as local government collaboration, community engagement, resident services and programming, cooperation with Chicago police and general office functions and support) will benefit the Development. Accordingly, the Owner agrees to pay to the Authority, on an annual basis, a fee (the “CHA Asset Management Fee”) as provided in this Section. The amount of the fee shall initially be the sum of Seventeen Thousand Five Hundred Ten and No/Dollars (\$17,510) and shall be cumulative to the extent not paid in full in any year. The initial installment of the fee and all amounts accrued shall be due and payable at the earlier to occur of (i) conversion to permanent financing or (ii) six (6) months after issuance of the Certificate of Substantial completion, with subsequent installments due on each anniversary of this Agreement. The fee shall be increased by three percent (3%) per annum; provided however, to the extent the activities or services in Exhibit B increase, the parties will renegotiate the amount of the fee to be paid.

**12. Real Estate Tax Abatement/PILOT Payment.**

(a) CHA shall submit such documents as may be required of CHA by the county clerk to enable the RAD Units to qualify for an abatement of real estate taxes, in accordance with the Illinois Revenue Code, 35 ILCS 200/18-177, as may be amended; provided that CHA's Obligation shall be conditioned upon the following conditions being satisfied: (i) the timely submission to CHA by the Owner of all required documentation; (ii) the maintenance by Owner of the RAD Units in the condition required to qualify for such abatement; (iii) the Owner is not ineligible to receive such abatement, or the benefits thereof; and (iv) the Owner performs or complies with all other requirements within the control of the Owner of the RAD Units in order for the RAD Units to be eligible for such abatement.



# UNOFFICIAL COPY

(b) The Owner acknowledges the City and CHA have agreed that the RAD Units fall under the scope of the Consolidated Cooperation Agreement dated June 22, 1959, and as further amended by Amendment No. 2 to the Consolidated Cooperation Agreement dated February 10, 1969. For the public services and facilities provided by the City to the RAD Units which qualify for an abatement pursuant to the above Section 12(a) (the “**Qualified RAD Units**”), the Owner shall make an annual payment to CHA to be applied to CHA’s payment in lieu of taxes (the “**RAD PILOT Payment**”) for the Qualified RAD Units. The Owner shall make an initial RAD PILOT Payment in the amount of One Hundred Fifty and No/100 Dollars (\$150.00) per unit for each Qualified RAD Units after construction completion of such RAD Units in the Development and within thirty (30) days upon receipt of the billing invoice provided by CHA for the Qualified RAD Units. Subsequent to the initial RAD PILOT Payment, and for every year following thereafter, CHA shall provide the Owner with an annual bill for the RAD PILOT Payment, which is required to be paid by Owner within thirty (30) business days upon receipt of the bill. If in any given year, the amount due by CHA for the payment of lieu of taxes for the Qualified RAD Units exceeds the amount of the RAD PILOT Payment made by Owner for that year, CHA shall notify the Owner and provide an adjusted bill for the increased difference between the payment made by Owner and the actual amount due by CHA, which Owner shall pay within five (5) days of receipt of the adjusted bill.

### 13. Owner Default and Remedies.

(a) **Default.** A default by the Owner under this Agreement shall occur if the Owner violates, breaches or fails to comply in any material respect with any provision of, or obligation under this Agreement or All Applicable RAD Requirements. A default by the Owner that is attributable to an action or omission of its property manager shall be deemed a default by the Owner for purposes of this Section.

(b) **Notice and Cure.** Upon a determination by the Authority that a default by the Owner has occurred, the Authority shall notify the Owner, the First Mortgage Lender, and the Investor of: (1) the nature of the default; (2) the actions required to be taken by the Owner, the First Mortgage Lender and/or the Investor to cure the default; and (3) the time (no less than thirty (30) days) within which the Owner, the First Mortgage Lender and/or the Investor shall respond with a showing that all required actions have been taken; provided that if the default by its nature cannot be cured within the aforesaid thirty (30) day period, the Owner, the First Mortgage Lender and/or the Investor may have additional time, with the Authority's written approval, as may be reasonable given the circumstances to effect a cure of the default. The Authority reserves the right to monitor the Owner's, the First Mortgage Lender's and/or the Investor's efforts to cure; and further reserves the right to reduce and/or terminate the time period allowed herein (but in no event less than thirty (30) days) where further actions to cure have not been made by the Owner, the First Mortgage Lender and/or the Investor. The First Mortgage Lender and the Investor each has the right, but not the obligation, to cure any default pursuant to the terms of this Section 11 (b). Notwithstanding the foregoing, the Authority rights granted herein shall be subject to All Applicable RAD Requirements.

(c) **Remedies.** If the Owner, the First Mortgage Lender and/or the Investor fail to respond or take corrective action to the satisfaction of the Authority as provided herein, the Authority shall have the right to exercise any remedy available to it by reason of such default,

# UNOFFICIAL COPY

including without limitation, to seek appropriate relief in any court having jurisdiction, including but not limited to specific performance, injunctive relief, or the appointment of a receiver to take over and operate the RAD Units in accordance with the terms of this Agreement without prejudice to the right of the Authority, alternatively or in addition to the foregoing, to exercise any remedy available to it, if any, if the nature of such default hereunder, would constitute a default under agreement or document to which the Authority is a party. Notwithstanding the foregoing, the Authority's remedies herein shall be subject to All Applicable RAD Requirements.

**14. Subordinate to RAD Use Agreement.** This Agreement is subject and subordinate to the RAD Use Agreement, the Ground Lease and the Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing.

**15. Miscellaneous.**

(a) **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the successors, assigns, and heirs of each of the parties; provided, however, that the Owner may not assign any of its interest in this Agreement without the prior written consent of the Authority.

(b) **Entire Agreement.** This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes any prior agreement or understanding between among them with respect thereto.

(c) **Amendments.** Subject to All Applicable RAD Requirements, this Agreement may not be amended except by an instrument in writing, signed on behalf of each of the parties and approved in writing by HUD.

(d) **No Waiver.** No delay or omission by either party in exercising any right or remedy available hereunder shall impair any such right or remedy or constitute a waiver thereof in the event of any subsequent occasion giving rise to such right or availability of remedy, whether of a similar or dissimilar nature.

(e) **Notices.** Any notice or other communication given or made pursuant to this Agreement shall be in writing and shall be deemed given if (i) delivered personally or by courier, (ii) sent by overnight express delivery, or (iii) mailed by certified mail, return receipt requested, to the respective address set forth below (or at such other address as shall be specified by the party by like notice given to the other party).

If to the Authority:

Chicago Housing Authority  
60 E. Van Buren St. 12th Floor  
Chicago, Illinois 60605  
Attention: Chief Executive Officer

# UNOFFICIAL COPY

with a copy to:

Chicago Housing Authority  
Office of the General Counsel  
60 E. Van Buren St., 12th Floor  
Chicago, Illinois 60605  
Attention: Chief Legal Officer

If to the Owner:

Southbridge 9 Master Owner LLC  
c/o The Community Builders  
135 South LaSalle Street, Suite 3350  
Chicago, Illinois 60603  
Attention: Director of Development

And to:

Southbridge 9 Master Owner LLC  
c/o The Community Builders  
135 South LaSalle Street, Suite 3350  
Chicago, Illinois 60603  
Attention: Director of Development

With a copy to:

Applegate & Thorne-Thomsen, P.C.  
425 S. Financial Place, Suite 1900  
Chicago, Illinois 60605  
Attention: Paul Davis

With a copy to:

The Community Builders  
185 Dartmouth Street  
Boston, MA 02116  
Attention: General Counsel

With a copy to:

GS Southbridge 9% Investor Opportunity Fund LP  
Urban Investment Group  
c/o Goldman Sachs Group  
200 West Street  
New York, New York 10282  
Attention: Urban Investment Group Portfolio Manager  
Email: gs-uirg-portfolio-manager@gs.com

with a copy to:

GS Southbridge 9% Investor Opportunity Fund LP  
Urban Investment Group  
c/o Goldman Sachs Bank USA  
200 West Street  
New York, NY 10282  
Attention: Scott Maxfield  
Email: scott.maxfield@gs.com

with a copy to:

Michael Dalton

# UNOFFICIAL COPY

2001 Ross Avenue, 32nd Floor  
 Dallas, Texas 75201  
 Attention: Urban Investment Group LIHTC Portfolio Manager  
 Email: michael.dalton@gs.com

with a copy to: gs-uig-docs@gs.com

with a copy to: Sidley Austin LLP  
 One South Dearborn Street  
 Chicago, IL 60603  
 Attention: Philip C. Spahn  
 Telephone No.: (312) 853-7015  
 Email: [pspahn@sidley.com](mailto:pspahn@sidley.com)

All such notices and other communication shall be deemed given on the date of personal or local courier delivery, the delivery to the overnight express delivery service, or deposit in the United States Mail, and shall be deemed to have been received (i) in the case of personal or local courier delivery, on the date of such delivery, (ii) in the case of delivery by overnight express delivery service, on the business day following dispatch, and (iv) in the case of mailing, on the date specified in the return receipt therefor.

(f) **Further Assurances.** Each party shall execute such other and further documents as may be reasonably necessary or proper for the consummation of the transaction contemplated by this Agreement.

(g) **No Personal Liability.** No officer, director, board member, shareholder, partner, employee, agent or other person authorized to act for or on behalf of either party shall be personally liable for any obligation, express or implied, hereunder. The Owner shall look solely to the Authority funds that are legally available for such purpose, and, except as provided by law, the Authority shall look solely to the Owner, for the satisfaction of any remedy each might have with respect to the other for the other's failure to perform any of its obligations hereunder. Notwithstanding the foregoing, nothing contained herein shall either relieve the Owner or any managing member, manager or general partner, shareholder of the Owner from personal liability and responsibility, or limit the Authority's rights and remedies against such parties, either at law or in equity: (i) for fraudulent acts; (ii) for insurance proceeds and condemnation awards received by the Owner and not turned over to the Authority or used by the Owner for restoration or repair of the RAD Units to the extent required under this Agreement; and (iii) for any rents or other income from the RAD Units received by the Owner after an event of default under this Agreement and not applied to expenses of the RAD Units.

(h) **Neither Party an Agent.** Nothing in this Agreement shall be deemed to appoint either Owner or the Authority as an agent for or representative of the other, and neither one shall be authorized to act on behalf of the other with respect to any matters. Neither Owner nor the Authority shall have any liability or duty to any person, firm, entity or governmental body for any act of omission or commission, liability, or obligation of the other, whether arising from Owner's or the Authority's actions under this Agreement or otherwise.

# UNOFFICIAL COPY

(i) **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of Illinois applicable to contracts made and to be performed therein.

(j) **Headings; Usage.** All section headings in this Agreement are for convenience of reference only and are not intended to modify the meaning of any section. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter as the identity of the person or persons may require. Where the context admits, the singular forms of terms used herein shall include the plural and the plural shall include the singular.

(k) **Severability.** If any provision of this Agreement or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Agreement, or the application of such provision to any person or circumstance other than those as to which it is held invalid, shall not be affected thereby.

(l) **Counterparts; Execution.** This Agreement may be executed in several counterparts, and all counterparts so executed shall constitute one agreement, binding on all parties hereto.

(m) **No Third Party Beneficiary.** The provisions of this Agreement shall not be construed for the benefit of or as enforceable by any person or entity not a party hereto, with the exception of HUD.

(n) **Amendments to the Owner's Organizational Documents.** The Owner's Organizational Documents may not be amended in any material respect without the prior written consent of the Authority.





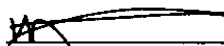
# UNOFFICIAL COPY

## MASTER OWNER

Southbridge 9 Master Owner LLC,  
an Illinois limited liability company

By: Ickes Master Developer JV, LLC,  
a Delaware limited liability company, its sole member

By: The Community Builders, Inc.,  
a Massachusetts nonprofit corporation, its managing member

By:   
Name: William Woodley  
Title: Authorized Agent

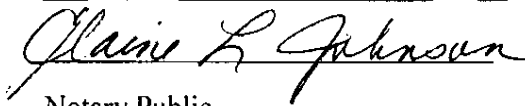
STATE OF ILLINOIS )

) ss

COUNTY OF COOK )

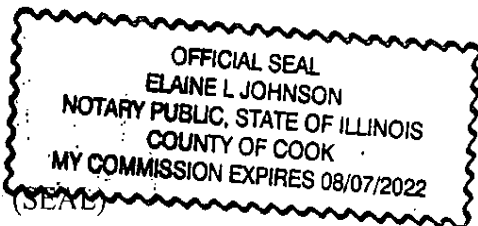
I, the undersigned, a Notary Public in and for the county and State aforesaid, do certify that William Woodley, personally known to me to be the Authorized Agent of The Community Builders, Inc., the managing member of Ickes Master Developer JV, LLC, (the "Managing Member"), the sole and managing member of Southbridge 9 Master Owner LLC, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Authorized Agent, he signed and delivered the said instrument, pursuant to authority given by the members of the Managing Member as the free and voluntary act of such person, and as the free and voluntary act and deed of the Managing Member and Southbridge 9 Master Owner LLC, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 18<sup>th</sup> day of December, 2019.



Notary Public

My Commission Expires 8/7/22



# UNOFFICIAL COPY

## AFFORDABLE TENANT

Southbridge 1-9 Housing LLC,  
an Illinois limited liability company

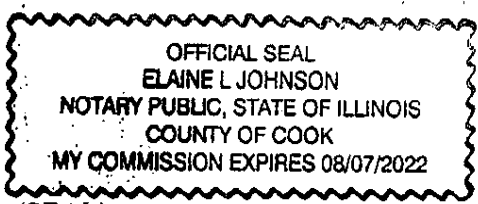
By: Southbridge 1 Housing MM LLC,  
its managing member

By: W  
Name: William Woodley  
Its: Authorized Agent

STATE OF ILLINOIS )  
) ss  
COUNTY OF COOK )

I, Elaine L Johnson, a notary public in and for the said County, in the State aforesaid, HEREBY CERTIFY that William Woodley, personally known to me to be the Authorized Agent of Southbridge 1 Housing MM LLC (the "Managing Member"), the managing member of Southbridge 1-9 Housing LLC, an Illinois limited liability company ("Southbridge"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument, pursuant to the authority given to him by the managers of the Managing Member, as his free and voluntary act and as the free and voluntary act of Southbridge 1-9 Housing LLC, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 18<sup>th</sup> day of December, 2019.



Elaine L Johnson  
Notary Public  
My Commission Expires 8/7/22

# UNOFFICIAL COPY

## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL 1:

THE LEASEHOLD ESTATE CREATED BY THE INSTRUMENT HEREIN REFERRED TO AS THE GROUND LEASE, EXECUTED BY CHICAGO HOUSING AUTHORITY, AN ILLINOIS MUNICIPAL CORPORATION, AS LANDLORD, AND TCB DEVELOPMENT SERVICES LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, AS TENANT, DATED AS OF JANUARY 16, 2020, WHICH LEASE WAS RECORDED January 17, 2020, AS DOCUMENT NUMBER 2001718067, ASSIGNED BY THE ASSIGNMENT AND ASSUMPTION AND AMENDMENT OF GROUND LEASE, DATED AS OF JANUARY 16, 2020, BETWEEN SAID TCB DEVELOPMENT SERVICES LLC, AND SOUTHBRIDGE 9 MASTER OWNER, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, WHICH ASSIGNMENT AND ASSUMPTION AND AMENDMENT OF GROUND LEASE WAS RECORDED January 17, 2020, AS DOCUMENT NUMBER 2001718068, WHICH LEASE DEMISES THE FOLLOWING DESCRIBED PROPERTY FOR A TERM OF 99 YEARS ENDING JANUARY 15, 2119:

THAT PART OF LOTS 13 THROUGH 24 (BOTH INCLUSIVE), THAT PART OF LOTS 27 THROUGH 33 (BOTH INCLUSIVE) AND THAT PART OF THE NORTH-SOUTH 15 FOOT WIDE PUBLIC ALLEY VACATED PER DOCUMENT NUMBER 15805877, RECORDED JANUARY 6, 1954, ALL IN BLOCK 10, IN UHLICH AND MUHLKE'S ADDITION TO CHICAGO, A SUBDIVISION OF THE EAST HALF OF THE NORTHEAST QUARTER (EXCEPT THE SOUTH HALF OF THE SOUTH HALF THEREOF) IN SECTION 28, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1 IN SAID BLOCK 10; THENCE SOUTH 01 DEGREES 31 MINUTES 56 SECONDS EAST ALONG AN ASSUMED BEARING, BEING THE EAST LINE OF LOTS 1 THROUGH 24 (BOTH INCLUSIVE) IN BLOCK 10, ALSO BEING THE WEST LINE OF STATE STREET, 509.70 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 01 DEGREES 31 MINUTES 56 SECONDS EAST ALONG THE LAST DESCRIBED COURSE 289.70 FEET TO THE SOUTHEAST CORNER OF SAID LOT 24, SAID CORNER ALSO BEING A POINT ON THE NORTH LINE OF VACATED W. 24TH STREET AS VACATED BY SAID DOCUMENT NUMBER 15805877; THENCE SOUTH 88 DEGREES 29 MINUTES 48 SECONDS WEST ALONG THE LAST DESCRIBED LINE 116.21 FEET; THENCE NORTH 01 DEGREE 31 MINUTES 56 SECONDS WEST 65.80 FEET; THENCE SOUTH 88 DEGREES 28 MINUTES 04 SECONDS WEST 38.50 FEET; THENCE NORTH 01 DEGREE 31 MINUTES 56 SECONDS WEST 139.00 FEET; THENCE NORTH 88 DEGREES 28 MINUTES 04 SECONDS EAST 38.50 FEET; THENCE NORTH 01 DEGREE 31 MINUTES 56 SECONDS WEST 84.90 FEET; THENCE NORTH 88 DEGREES 29 MINUTES 48 SECONDS EAST 116.21 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

EXCEPTING THEREFROM ALL BUILDINGS AND IMPROVEMENTS LOCATED, OR TO BE LOCATED AFTER THE DATE OF THE AFORESAID GROUND LEASE, THEREON.

# UNOFFICIAL COPY

PARCEL 2:

FEE SIMPLE TITLE TO ALL BUILDINGS AND IMPROVEMENTS LOCATED, OR TO BE LOCATED AFTER THE DATE OF THE AFORESAID GROUND LEASE, ON THE LEASEHOLD ESTATE HEREINABOVE DESCRIBED AS PARCEL 1.

**ADDRESSING**

Common Addresses: 2336-2356 S. State Street, Chicago IL 60616  
Residential Address: 2344 S. State Street, Chicago IL 60616  
Retail Addresses: 2336 S. State Street, Chicago IL 60616;  
2340 S. State Street, Chicago IL 60616  
Management Address: 2350 S. State Street, Chicago IL 60616  
Community Space Address: 2356 S. State Street, Chicago IL 60616

**PROPERTY PINS**

Property Pins: 17-28-218-029 (affects part of the land and other property); and  
17-28-218-030 (affects part of the land and other property)

COOK COUNTY  
RECORDER OF DEEDS

COOK COUNTY  
RECORDER OF DEEDS

# UNOFFICIAL COPY

## EXHIBIT B CHA PROVIDED SERVICES AND ACTIVITIES

Ickes/Southbridge Phase 1B		34 RAD Units			
Service/Activity	CHA Department (Primary)	Estimated Annual Cost*			
Reasonable Accommodation Requests, Grievance Processing, General Legal Support	Legal	\$ 700	4.0%		
Supervision and Support for Resident Services Provision at Property	Resident Services	\$ 1,926	11.0%		
Local Government Collaboration, Community Engagement, Emergency Response/Security Support/Cooperation with Chicago Police Department through existing Intergovernmental Agreement, Camera Monitoring	Property Office/ Asset Management	\$5,253	30.0%		
Program and Financial Monitoring, including waitlist administration, tracking of RAD Units Replacement Reserve deposits and other applicable RAD and PBV compliance items	Property Office/ Asset Management	\$9,105	52.0%		
Information Technology (IT) Support and Yardi maintenance	IT	\$ 525	3.0%		
	First Year Annual	\$ 17,510	Yearly	\$515.00	23500
		\$1,459.4			
		\$ 42.92	PUM		

Based on most recent CHA costs in Operating Pro Forma submitted to HUD

# UNOFFICIAL COPY

## EXHIBIT C DESCRIPTION OF INITIAL RAD UNITS

Units may float but the following mix must be maintained:

Number of Contract Units	Number of Bedrooms	Number of Bathrooms	Contract Rent	Utility Allowance	Gross Rent
20	1	1	\$1,098	\$66	\$1,164
14	2	2	\$1,301	\$80	\$1,381

Initial placement of units is as follows:

Address	Unit	Number of Bedrooms	Number of Bathrooms	Contract Rent	Utility Allowance	Gross Rent
2350 S. State St, Chicago, IL	201	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	204	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	205	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	208	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	211	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	223	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	224	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	302	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	307	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	308	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	310	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	313	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	322	1	2	1,098	\$64	\$1162



## UNOFFICIAL COPY

2350 S. State St, Chicago, IL	325	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	402	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	403	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	407	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	410	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	411	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	415	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	421	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	422	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	504	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	507	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	510	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	513	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	514	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	519	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	523	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	603	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	607	2	1	1,301	\$77	\$1378
2350 S. State St, Chicago, IL	610	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	614	1	2	1,098	\$64	\$1162
2350 S. State St, Chicago, IL	615	1	2	1,098	\$64	\$1162