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RHSP FEE:\$18.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 02/05/2024 01:34 PM PG: 1 OF 47

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

## RAMOVA THEATER REDEVELOPMENT AGREEMENT (Sales Tax Securitization Corporation Loan)

This Ramova Theater Redevelopment Agreement (this "Agreement") is made as of the Agreement Date by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Developer. Capitalized terms not otherwise defined herein shall have the meaning given in the table headed "Project Information" or in Section 2, as applicable.

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## PROJECT INFORMATION

Term (Agreement Section where first used)	Definition
Agreement Date (preamble)	1st day of February, 2024
Developer (preamble)	Our Revival Chicago Operating Company, LLC, an Illinois limited liability company ("OPCO").
Project (Recitals)	<p>Developer is redeveloping the Ramova Theater Building as an approximately 38,761 square foot theater (the "Theater"). ORC also purchased the properties located at 3506 South Halsted Street (the "3506 Property") and 3508-3516 South Halsted Street (the "3508 Property," and together with the 3506 Property, the "West Property"). OPCO purchased the property located at 3531-3547 South Halsted Street (the "East Property") (the West Property and the East Property shall be known collectively herein as the "Developer Property," and together with the Disposition Parcels, the "Property," as legally described in Exhibit A hereto). The Developer is redeveloping the Property within the time frames set forth in Section 3.01 of the TIF RDA to include: the renovation of the Theater; development of a restaurant ("Restaurant") and brewery ("Brewery"); and development of the East Property for use as accessory parking. The Theater and related improvements (including but not limited to those Improvements as defined below and set forth on <u>Exhibit B</u>) are collectively referred to herein as the "Project." As of the date hereof, the Developer has substantially completed the Project and commenced operations of the Theater, Brewery and Restaurant.</p>
City Funds (Recitals)	<p>Check applicable box:</p> <p><input type="checkbox"/> <b>CRP Bonds and/or Corporate Funds.</b> "City Funds" shall mean Corporate Funds and/or the proceeds of CRP Bonds defined below: pursuant to an ordinance passed by the City Council on October 27, 2021 and published in the Journal for such date at pages 40213 through 40503, inclusive and published in pamphlet form on November 5, 2021, which amended an ordinance passed by the City Council on November 24, 2020 and published in the Journal for such date at pages 24643 through 24723, inclusive and published in pamphlet form on December 3, 2020 (together, the "CRP Bond Ordinance"), the City indicated its intention to issue bonds (the "CRP Bonds") and appropriated funds from Fund Number 100 (the "Corporate</p>

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	<p>Funds”) to be used for the purposes identified by the CRP Bond Ordinance (the “CRP New Money Purposes”), with the expectation that the proceeds of the CRP Bonds, when issued, will reimburse the Corporate Funds used for the CRP New Money Purposes.</p> <p><u> X </u> <b>STSC Bonds and/or Corporate Funds.</b> “City Funds” shall mean Corporate Funds and/or the proceeds of STSC Bonds defined below: pursuant to an Ordinance passed by the City Council on October 11, 2017 and published in the Journal for such date at pages 55903 through 55915, inclusive (the “STSC Ordinance”), as amended by an Ordinance passed by the City Council on January 18, 2023 and published in the Journal for such date at pages 59124 through 59349, inclusive (the “STSC Reimbursement Ordinance” and together with the STSC Ordinance, the “STSC Bond Ordinance”), the City authorized the Sales Tax Securitization Corporation (“STSC”) to issue bonds (the “STSC Bonds”) with the expectation that the proceeds of the STSC Bonds, when issued, will reimburse the Corporate Funds used for the purposes identified in the STSC Reimbursement Ordinance (the “STSC New Money Purposes”).</p>																						
Commencement Date (3.01)	December 21, 2021																						
Completion Date (3.01)	July 1, 2024																						
Estimated Project Cost (4.01)	\$38,374,221																						
City Loan (Definitions)	\$1,000,000																						
Funding Sources (4.01)	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Funding Source</th> <th style="text-align: left;">Amount</th> </tr> </thead> <tbody> <tr> <td>Equity – Investors</td> <td>\$6,372,000</td> </tr> <tr> <td>Equity – Sponsor</td> <td>\$565,000</td> </tr> <tr> <td>Equity – Historic Tax Credits</td> <td>\$6,241,221</td> </tr> <tr> <td>Lender Financing</td> <td>\$4,000,000</td> </tr> <tr> <td>SBA Loan</td> <td>\$3,500,000</td> </tr> <tr> <td>PACE Financing</td> <td>\$7,400,000</td> </tr> <tr> <td>State Funds/State Funds Bridge Loan</td> <td>\$1,200,000</td> </tr> <tr> <td>TIF Loan</td> <td>\$9,096,000</td> </tr> <tr> <td>City Loan</td> <td>\$1,000,000</td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>\$38,374,221</b></td> </tr> </tbody> </table>	Funding Source	Amount	Equity – Investors	\$6,372,000	Equity – Sponsor	\$565,000	Equity – Historic Tax Credits	\$6,241,221	Lender Financing	\$4,000,000	SBA Loan	\$3,500,000	PACE Financing	\$7,400,000	State Funds/State Funds Bridge Loan	\$1,200,000	TIF Loan	\$9,096,000	City Loan	\$1,000,000	<b>TOTAL</b>	<b>\$38,374,221</b>
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Trade Names (5.05)	N/A																						

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Certificate Deadline (6.05)	December 31, 2024
Permitted Liens (12)	Those matters set forth as Schedule B title exceptions in the Title Policy, as may be updated from time to time, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.
Notice Addresses (13.14)	<p><b><u>If to the Developer:</u></b>  Our Revival Chicago Operating Company, LLC  921 West 34<sup>th</sup> Street  Chicago, Illinois 60608  <u>Attention:</u> Tyler Nevius</p> <p>with a copy to</p> <p>Dykema Gossett PLLC  10 S. Wacker Drive, Suite 2300  Chicago, Illinois 60606  <u>Attention:</u> Andrew Scott, Esq.</p> <p>And to</p> <p>Byline Bank  10 North Martingale Road, Suite 160  Schaumburg, Illinois 60173</p> <p><b><u>If to the City:</u></b>  City of Chicago, Department of Planning and Development  121 North LaSalle Street, Room 1000  Chicago, Illinois 60602  <u>Attention:</u> Commissioner</p> <p>with a copy to</p> <p>City of Chicago, Department of Law  121 North LaSalle Street, Room 600  Chicago, Illinois 60602  <u>Attention:</u> Finance and Economic Development Division</p>

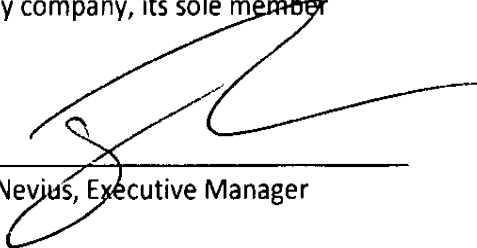
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## Signature page to Ramova Theater Redevelopment Agreement (STSC Loan)

IN WITNESS WHEREOF, the parties hereto have caused this Ramova Theater Redevelopment Agreement (STSC Loan) to be executed on or as of the Agreement Date.

OUR REVIVAL CHICAGO OPERATING COMPANY,  
LLC, an Illinois limited liability company

By: Our Revival Syndicate, LLC, an Illinois limited  
liability company, its sole member

By:   
Tyler Nevius, Executive Manager

CITY OF CHICAGO, by and through its Department  
of Planning and Development

By:   
Ciere Boatright, Commissioner

Property of Cook County Clerk's Office





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## SECTION 1. RECITALS

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

B. City Council Authority. The City Council of the City (the "City Council") has adopted one or more ordinances authorizing the use of City Funds to fund a portion of the costs of the Project and authorizing the Commissioner of DPD to enter into this Agreement.

C. City Funds. The City agrees to loan, in the amounts set forth in Section 4.02 hereof, City Funds to pay for or reimburse the Developer for the costs of Improvements (as defined below) pursuant to the terms and conditions of this Agreement.

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

## SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the table headed "Project Information", the following terms shall have the meanings set forth below:

"Affiliate" shall mean any person or entity directly or indirectly controlling, controlled by or under common control with OPCO.

"Annual Compliance Report" shall have the meaning assigned to it in the TIF RDA.

"Bond(s)" shall mean STSC Bonds.

"Business Day" shall mean a day on which banks in the City are not authorized or required to remain closed and which shall not be a public holiday under the laws of the State of Illinois or any ordinance or resolution of the City.

"Certificate" shall mean the Certificate of Completion of Construction or Rehabilitation described in Section 6.01 hereof.

"Change Order" shall mean any amendment or modification to the Scope Drawings, Plans and Specifications which meets one or more of the criteria described in Section 3.06

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



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"City Funds" shall have the meaning set forth in the Recitals hereof.

"Claims" shall mean any and all claims, demands, actions, notices, liens, suits, causes of action, complaints, enforcement actions, citations, notices of violation, legal or administrative proceedings, warnings or inquiries.

"Closing Date" shall mean the date of execution and delivery of this Agreement by all parties hereto, which shall be deemed to be the date appearing in the first paragraph of this Agreement.

"Compliance Period" shall have the meaning assigned to it in the TIF RDA.

"Construction Contract" shall have the meaning assigned to it in the TIF RDA.

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

"Disposition Parcels" shall have the meaning set forth in the TIF RDA.

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

"Eligible Costs" shall mean those costs for which STSC proceeds may be utilized.

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 135 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code.

"Equity" shall have the meaning assigned to it in the TIF RDA.

"Event of Default" shall have the meaning set forth in Section 11 hereof.

"Final Project Cost" shall mean the total actual cost of the construction of the Project, as certified to and acceptable to DPD under Section 6.01 hereof.

"General Contractor" shall mean the general contractor(s) hired by Developer pursuant to Section 6.01 of the TIF RDA.

"IEPA" shall mean the Illinois Environmental Protection Agency.

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"Improvements" shall mean those improvements of the Project which (i) are eligible to be reimbursed using the proceeds of the Bonds and (ii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. Exhibit B lists the Improvements for the Project.

"Journal" shall mean the Journal of the Proceedings of City Council.

"Lender Financing" shall mean funds borrowed by Developer from one or more lenders and irrevocably available to pay for costs of the Project, in the amounts set forth in the Funding Sources.

"Losses" shall have the meaning assigned to it in the TIF RDA.

"Maturity Date" shall mean the date that is 365 days from the date the City Loan proceeds are disbursed to Developer.

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

"MBE/WBE Budget" shall mean the budget attached hereto as Exhibit B.

"MBE/WBE Program" shall have the meaning set forth in Exhibit E hereof.

"Mortgage" shall mean that certain Junior Mortgage, Security Agreement and Financing Statement dated as of the Closing Date, executed from Developer to the City, as from time to time supplemented, amended and restated, securing the Note.

"Municipal Code" shall have the meaning set forth in the Recitals.

"NFR Letter" shall mean a "no further remediation" letter issued by IEPA pursuant to the Site Remediation Program.

"Note" shall mean the Note evidencing the Loan (and all amendments or supplements thereto, extensions thereof and notes which may be taken in whole or partial renewal, substitution or extension thereof), dated the Closing Date, executed by the Developer and payable to the City in the principal amount of the Loan.

"Occupancy Covenant" shall have the meaning set forth in Section 7.05 hereof.

"Operations Covenant" shall have the meaning set forth in Section 7.04 hereof.

"Premises" shall have the meaning given to such term in the Mortgage.

"Project Budget" shall mean the budget attached hereto as Exhibit B, showing the total cost of the Project by line item, furnished by Developer to DPD, in accordance with Section 4.01 hereof.

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"Property" shall mean the real property described on Exhibit A.

"Redevelopment Plan" shall have the meaning assigned to it in the TIF RDA.

"Redevelopment Project Costs" shall have the meaning assigned to it in the TIF RDA.

"Requisition Form" shall mean the document, in the form attached hereto as Exhibit D, to be delivered by Developer to DPD pursuant to Section 4.06 of this Agreement.

"Scope Drawings, Plans and Specifications" shall mean final construction documents containing a site plan and working drawings and specifications for the Project, as submitted to the City as the basis for obtaining building permits for the Project.

"Site Remediation Program" shall mean the program for the environmental remediation of the Property undertaken by the Developer and overseen by the IEPA, upon completion of which (to the satisfaction of the IEPA) the IEPA shall issue an NFR Letter with respect to the Property to the Developer.

"Survey" shall have the meaning assigned to it in the TIF RDA.

"Sustainable Development Policy" shall mean the Chicago Sustainable Development Policy for the Project in effect as of the date of Developer's initial application for the City Loan.

"Term of the Agreement" shall mean the earlier of (1) one year from Closing Date or (2) the date on which the City Loan is repaid.

"TIF RDA" shall mean that Ramova Theater Redevelopment Agreement, dated as of September 2, 202, as amended by the First Amendment to the Ramova Theater Redevelopment Agreement, dated as of August 12, 2022, among the City, DPD, ORC, OPCO, and NFP, as amended, restated, supplemented or otherwise modified from time to time.

"Title Company" shall mean Chicago Title Insurance Company.

"Title Policy" means a title insurance policy issued by the Title Company in the most recently revised ALTA or equivalent form, showing the Developer as the named insured with respect to the City Loan.

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

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

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## SECTION 3. THE PROJECT

3.01 Project Completion. With respect to the rehabilitation and construction of the Project, Developer shall: (i) commence construction no later than the Commencement Date, and (ii) complete construction and conduct operations therein no later than the Completion Date.

3.02 Project Budget; Funding Sources. Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than the Estimated Project Cost. The Developer hereby certifies to the City that (a) the Funding Sources shall be sufficient to complete the Project, and (b) the Project Budget and Funding Sources are true, correct and complete in all material respects.

3.03 Scope Drawings, Plans and Specifications. Developer has delivered the Scope Drawings, Plans and Specifications to DPD and DPD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings, Plans and Specifications, which meet the definition of a Change Order, shall be submitted to DPD as a Change Order pursuant to Section 3.06 hereof. The Scope Drawings, Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable federal, state and local laws, ordinances and regulations. Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

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

3.05 Other Approvals. Any DPD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, Developer's obligations to comply with the provisions of Section 5.02 (Other Governmental Approvals) hereof. Developer shall not commence construction of the Project until Developer has obtained all necessary permits and approvals (including but not limited to DPD's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

3.06 Change Orders. All Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Project must be submitted by Developer to DPD in accordance with Section 3.04 of the TIF RDA.

3.07 Survey Updates. On the Completion Date, the Developer shall provide an updated Survey if the Project added new improvements to the Property.

3.08 Signs and Public Relations. Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the construction of the Project, indicating that

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financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding Developer, the Property and the Project in the City's promotional literature and communications.

## SECTION 4. PROJECT FINANCING

4.01 Estimated Project Cost and Sources of Funds. The cost of the Project is estimated to be \$38,374,221, to be applied in the manner set forth in the Project Budget.

4.02 City Loan. Subject to the terms and conditions of this Agreement, and in accordance with the terms and conditions set forth on Exhibit F, the City hereby agrees to lend up to the amount of the City Loan to reimburse the cost of Improvements and allocated by the City for that purpose.

4.03 Uses of City Loan. City Loan funds may only be used to pay directly or reimburse Developer for costs of Improvements. Exhibit B sets forth, by line item, the Project Budget for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Loan funds for each line item therein (subject to the conditions described in this Agreement), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as an Improvement.

4.04 Intentionally omitted.

4.05 Intentionally omitted.

4.06 Requisition Form. When Developer submits documentation to the City in connection with a request for the disbursement of the City Loan as described in Exhibit F, beginning on the first request for disbursement and continuing through the earlier of (i) the term of the Agreement or (ii) the date that City Loan has been disbursed in full under this Agreement, Developer shall provide DPD with a Requisition Form, along with the documentation described therein. Developer shall meet with DPD at the request of DPD to discuss the Requisition Form(s) previously delivered.

4.07 Preconditions of Disbursement. Prior to disbursement of the City Loan hereunder, Developer shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole discretion.

4.08 Cost Overruns. If the aggregate cost of Improvements exceeds the City Loan funds available pursuant to Section 4.02 hereof, or if the cost of completing the Project exceeds the Estimated Project Cost, Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the Project.

## SECTION 5. CONDITIONS PRECEDENT

The Developer must satisfy the following conditions before the City will execute and deliver this Agreement, unless such conditions are waived in writing by the City:

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5.01 Project Budget. DPD must have approved the Project Budget.

5.02 Other Governmental Approvals. The Developer must have secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DPD. Such approvals shall include, without limitation, all building permits necessary for the Project; provided, however, that if the City agrees to close before construction commences, such building permits shall be secured prior to commencement of any such construction work.

5.03 Financing. The Developer must have furnished proof reasonably acceptable to the City that it has Equity and Lender Financing to complete the Project.

5.04 Acquisition and Title. The Developer must have furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Developer as the named insured, along with copies of all Schedule B title exception documents. The Title Policy must be dated as of the Closing Date and contain only those title exceptions acceptable to the City in its sole discretion and evidence the recording of this Agreement. The Title Policy must contain such endorsements as may be required by Corporation Council, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. If the Project involves any acquisition of real property, the Developer must have provided DPD with documentation related to such acquisition acceptable to the City in its sole discretion.

5.05 Evidence of Clean Title. The Developer, at its own expense, must have provided the City with searches under its name and any Trade Names as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC/Fixture search
Cook County Recorder	Federal tax search
Cook County Recorder	State tax search
Cook County Recorder	Memoranda of judgments search
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

5.06 Environmental. Developer has provided DPD with copies of that certain phase I environmental audit completed with respect to the Property and any phase II environmental audit with respect to the Property required by the City. Developer has provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audit(s). If applicable based on results of the phase II environmental audit, the Developer shall provide the City with a final comprehensive (if applicable) NFR Letter with respect to the Property, signed by the IEPA upon issuance thereof.

5.07 Corporate Documents. Developer has provided a copy of its articles or certificate of incorporation or organization containing the original certification of the Secretary of State; certificates of good standing from the Secretary of State of its state of incorporation or organization and all other states

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in which Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; bylaws or operating agreement; and such other organizational documentation as the City has requested.

5.08 Economic Disclosure Statement. Developer shall provide to the City an EDS, dated as of the Closing Date, which is incorporated by reference, and Developer further will provide any other affidavits or certifications as may be required by federal, state or local law in the award of public contracts, all of which affidavits or certifications are incorporated by reference.

5.09 Insurance. The Developer, at its own expense, must have insured the Property in accordance with Exhibit C hereto, or Accord Form 27 certificates evidencing the required coverages.

5.10 Construction Compliance Informational Conference. Developer shall provide to the City a copy of the informational conference letter signed by DPD's construction and compliance division.

5.11 Surveys. Developer shall provide the City with a copy of the Survey(s).

## SECTION 6. COMPLETION OF CONSTRUCTION OR REHABILITATION

6.01 Certificate of Completion of Construction or Rehabilitation. Upon completion of the Project in accordance with the terms of this Agreement and upon Developer's written request, DPD shall issue to Developer a Certificate of Completion of Construction or Rehabilitation (the "Certificate") in recordable form certifying that Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. If Developer has not fulfilled its obligation, DPD will issue a written statement detailing the measures which must be taken in order to obtain them.

DPD may require a single inspection by an inspecting architect hired at the Developer's expense to confirm the completion of the Project. DPD shall make its best efforts to respond to Developer's written request for the Certificate within forty-five (45) days by issuing the Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by Developer in order to obtain the Certificate. Developer may resubmit a written request for the Certificate upon completion of such measures.

The Developer acknowledges and understands that the City will not issue the Certificate in connection with the Project, until the following conditions have been met:

- Receipt of a Certificate of Occupancy or other evidence acceptable to DPD that the developer has complied with building permit requirements for Project;
- Evidence acceptable to DPD that the Project is in compliance with the Operations Covenant and the Occupancy Covenant; and
- Evidence acceptable to DPD in the form of a closeout letter from the Department of Housing's Bureau of Construction and Compliance stating that the Developer is in complete compliance with all City Requirements (MBE/WBE, City Residency, and Prevailing Wage), as defined in Exhibit E.



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6.02 Continuing Obligations. The Certificate relates only to the respective performance of the work associated with the Project improvements. After the issuance of the Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein unrelated to such work will remain in effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms. Notwithstanding any provision of this Agreement to the contrary, in addition to any other provisions of this Agreement which by their terms survive the expiration of the Term of the Agreement, the following will survive until ten years after the Bonds, or any bonds that refinance the Bonds, have been fully paid and retired: (i) the duty to cooperate with and assist the City with the resolution of any governmental or other type of inquiry into or audit of the Bonds, or any bonds that refinance the Bonds, and (ii) Section 8, Maintaining Records and Right to Inspect.

Those covenants specifically described at Sections 7.02, 7.04, and 7.05 as covenants that run with the land will bind any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement or such shorter period as may be explicitly provided for therein. The other executory terms of this Agreement shall be binding only upon the Developer or a permitted assignee under Section 7.01(i) of this Agreement.

6.03 Failure to Complete. If the Developer fails to complete the Project in accordance with the terms of this Agreement, the Certificate will not be issued, and the City will have the right to terminate this Agreement and pursue remedies as set forth on Exhibit F. If this occurs, the City Loan will be accelerated.

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

6.05 Failure to Obtain Certificate. If the Developer has not received the Certificate by the Certificate Deadline, the City shall have the right to terminate the Agreement and pursue remedies as set forth on Exhibit F.

## **SECTION 7. COVENANTS/REPRESENTATIONS/WARRANTIES OF DEVELOPER**

7.01 General. OPCO represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of the City Loan hereunder that:

(a) It is a limited liability company duly incorporated or organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

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



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

(d) during the Term of the Agreement, if it owns any portion of the Property, it shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon), or a leasehold interest therein, free and clear of all liens except for the Permitted Liens and such other matters as DPD may consent to in writing;

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

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

(g) It has and shall maintain all government permits, certificates and consents necessary to conduct its business and to construct, complete and operate the Project, as applicable;

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

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

(j) It has not incurred, and, prior to the issuance of a Certificate, shall not without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except lender financing as disclosed to the City; and

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

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7.02 Covenant to Redevelop. Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or Developer. The covenants set forth in this Section shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate with respect thereto.

7.03 Use of City Loan. City Loan funds disbursed to Developer shall be used by Developer solely to reimburse Developer for its payment for Improvements as provided in this Agreement.

7.04 Operations Covenant. The Developer hereby covenants and agrees, throughout the Term of the Agreement, to maintain its operations at the Project (the "Operations Covenant"). The covenants set forth in this Section shall run with the land and be binding upon any transferee.

7.05 Occupancy Covenant. The Developer hereby covenants and agrees, throughout the Term of the Agreement, to maintain that the entire Project shall remain occupied, and otherwise open for business (the "Occupancy Covenant"). The covenants set forth in this Section shall run with the land and be binding upon any transferee.

7.06 Intentionally Omitted.

7.07 Annual Compliance Report. Following the issuance of the Certificate, each Year throughout the Term of the Agreement, the Developer shall submit to DPD by June 30<sup>th</sup> the Annual Compliance Report itemizing each of Developer's obligations under this Agreement during the preceding calendar year. If this report is not received within this timeframe, the City will notify Developer in writing of such deficiency. Thereafter, Developer shall have ten (10) days to file the Annual Compliance Report with DPD. Developer's failure to timely submit the report will constitute an event of default. To the extent there is a conflict between the TIF RDA and this Agreement regarding the substance and or timing of the Annual Compliance Report, the TIF RDA shall govern.

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

7.09 Conflict of Interest. Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, or any consultant hired by the City or Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in Developer's business, the Property or any other property in the redevelopment project area, if any, in which the Property is located.

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

7.11 Financial Statements. Developer shall obtain and provide to DPD Financial Statements for Developer's most recent fiscal year ended before the Agreement Date and each year thereafter for the Term of the Agreement. In addition, Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DPD may request.

7.12 Insurance. The Developer shall provide and maintain during the Term of the Agreement, and cause other applicable parties to provide and maintain, the insurance coverages specified in Exhibit C.

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

7.14 Recording and Filing. The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property in the Recorder's Office of Cook County. If the Permitted Liens include any existing mortgages, such mortgagee must execute a subordination agreement acceptable to the City in its sole discretion.

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

7.16 Non-Governmental Charges. Except for the Permitted Liens, and subject to the next sentence, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charges. The Developer has the right, before any delinquency occurs, to contest any Non-Governmental Charge by appropriate legal proceedings properly and diligently prosecuted, so long as such proceedings serve to prevent any sale or forfeiture of the Property.

7.17 Governmental Charges.

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

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

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

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

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

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

7.19 FOIA and Local Records Act Compliance.

(a) FOIA. The Developer acknowledges that the City is subject to the Illinois Freedom of Information Act, 5 ILCS 140/1 et. seq., as amended ("FOIA"). The FOIA requires the City to produce records

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(very broadly defined in FOIA) in response to a FOIA request in a very short period of time, unless the records requested are exempt under the FOIA. If the Developer receives a request from the City to produce records within the scope of FOIA, then the Developer covenants to comply with such request within 48 hours of the date of such request. Failure by the Developer to timely comply with such request shall be an Event of Default.

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

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

## SECTION 8. MAINTAINING RECORDS AND RIGHT TO INSPECT

8.01 Books and Records. Developer, the general contractor and each subcontractor shall keep and maintain books and records that fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto and as otherwise necessary to evidence the Developer’s compliance with its obligations under this Agreement, including, but not limited to, payroll records, general contractor’s and subcontractors’ sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices and the like. Such books and records shall be available at the applicable party’s offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer’s expense.

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

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## SECTION 9. ENVIRONMENTAL MATTERS

The Developer hereby represents and warrants to the City that it has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with the requirements of all Environmental Laws and this Agreement. The Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City and relating to the Project or the Property.

## SECTION 10. INDEMNIFICATION

Developer agrees to indemnify, defend and hold the City, its officers, officials, members, agents and employees harmless from and against any and all losses, costs, damages, liabilities, claims, suits, judgments, demands, actions, causes of action of every kind or nature and expenses (including, without limitation, attorneys' fees and court costs) arising out of or incidental to the failure of Developer to perform its obligations under this Agreement. Upon reasonable notice from the City of any claim which the City believes to be covered hereunder, Developer shall timely appear in and defend all suits brought upon such claim and shall pay all costs and expenses incidental thereto, but the City shall have the right, at its option and at its own expense, to participate in the defense of any suit, without relieving Developer of any of its obligations hereunder. The obligations set forth in this section shall survive any termination or expiration of this Agreement.

## SECTION 11. DEFAULT AND REMEDIES

11.01 Events of Default. The occurrence of any one or more of the following events, subject to the provisions of Section 7 (Covenants, Representations, and Warranties of Developer) and Exhibit F (City Loan Terms), shall constitute an "Event of Default" by Developer hereunder:

- (a) the failure of Developer to complete the Project in accordance with the terms of this Agreement and the TIF RDA;
- (b) the failure of Developer to comply with any covenant or obligation, or the breach by Developer of any representation or warranty, under this Agreement or any related agreement;
- (c) the making or furnishing by Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;
- (d) the commencement of any bankruptcy, insolvency, liquidation or reorganization proceedings under any applicable state or federal law, or the commencement of any analogous statutory or non-statutory proceedings involving Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;



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

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

(g) the dissolution of Developer or the death of any natural person who owns a 50% or more ownership interest in Developer, unless, in the case of a death, Developer establishes to the DPD's satisfaction that such death shall not impair Developer's ability to perform its executory obligations under this Agreement; or

(h) in the event Developer relocates the business without the prior written consent of the City during the Term of the Agreement.

11.02 Remedies. Upon the occurrence of an Event of Default, the City shall have the remedies set forth in Exhibit F. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy.

11.03 Cure Period. In the event Developer shall fail to perform a covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless Developer has failed to perform such covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such covenant. To the extent that there is a conflict between Event of Default cure periods in this Agreement and the TIF RDA, the applicable cure period in the TIF RDA shall govern.

## SECTION 12. MORTGAGING OF THE PROJECT

The Permitted Liens are the only mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof. No mortgagee shall have the right to succeed to Developer's rights under this Agreement unless the sale, assignment, or transfer receives the sole written consent of the City. This consent shall be in the City's sole discretion and which, if granted, may be conditioned upon, among other things, the assignee's assumption of all of Developer's obligations under this Agreement.

Upon the request of a lender providing Lender Financing, the City shall agree to subordinate its interests under this Agreement to the mortgage of such lender pursuant to a written subordination agreement, the form of which shall be in a form reasonably acceptable to the City and Corporation Counsel.

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## SECTION 13. GENERAL PROVISIONS

13.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this Section 13.01 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental or construction obligations of Developer by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by Developer by more than ninety (90) days.

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

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

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

13.05 No Implied Waivers. No waiver by either Party of any breach of any provision of this Agreement will be a waiver of any continuing or succeeding breach of the breached provision, a waiver of the breached provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to, or demand on, either Party in any case will, of itself, entitle that Party to any further notice or demand in similar or other circumstances.

13.06 Titles and Headings. Titles and headings to paragraphs contained in this Agreement are for convenience only and are not intended to limit, vary, define or expand the content of this Agreement.

13.07 Remedies Cumulative. The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

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



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

13.10 Governing Law and Venue. This Agreement will be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to the principles of conflicts of law thereof. If there is a lawsuit under this Agreement, each Party hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois.

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

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

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

13.14. Notices. Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the Notice Address, by any of the following means: (a) personal service; (b) overnight courier, or (c) registered or certified mail, return receipt requested.

13.15. Severability. If any provision of this Agreement, or the application thereof, to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect only if, after excluding the portion deemed to be

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unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein.

13.16. Survival of Agreements. All warranties, representations, covenants and agreements of this Agreement shall be true, accurate and complete at the time of the execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and shall be in effect throughout the Term of the Agreement.

13.17. Exhibits. All of the exhibits attached to this Agreement are incorporated into this Agreement by reference.

13.18. Business Relationships. Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

13.19. Performance Under TIF RDA. To the extent that Developer has performed any of the obligations set forth in this Agreement pursuant to the terms of the TIF RDA, such performance in accordance with the TIF RDA shall be deemed to satisfy the obligations in this Agreement.

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**Exhibit A**  
**Legal Description of the Property**

LOTS 27, 30, 31, 34, 35, 38 AND 39 IN BLOCK 4 IN HAMBURG, BEING SAMUEL GAHR'S SUBDIVISION OF BLOCKS 23 AND 24 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS 3531 TO 3543 SOUTH HALSTED STREET, CHICAGO, ILLINOIS

PINS: 17-33-300-013-0000, 17-33-300-014-0000, 17-33-300-015-0000, 17-33-300-016-0000,  
17-33-300-017-0000, 17-33-300-018-0000 and 17-33-300-019-0000

Property of Cook County Clerk's Office

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## Exhibit B Project Budgets (Project, M/WBE, Improvements)

	MBE/WBE BUDGET	
	Project Budget	MBE/WBE Budget
<b>Acquisition</b>	\$ 4,240,001	
<b>Hard Costs</b>		
Site	\$ 1,338,259	\$ 1,338,259
Substructure	\$ 682,643	\$ 682,643
Structure	\$ 2,508,019	\$ 2,508,019
Exterior Enclosure	\$ 2,121,982	\$ 2,121,982
Finishes	\$ 3,261,169	\$ 3,261,169
Vertical transportation	\$ 162,500	\$ 162,500
MEPs	\$ 5,492,871	\$ 5,492,871
Brewery Buildout - Hard Costs (brewing equipment)	\$ 1,519,016	\$ 1,045,550
Theatre Fitout - Hard Costs (audio visual equipment)	\$ 3,552,407	\$ 1,525,516
Hard Cost Contingency	\$ 1,195,843	\$ 1,185,843
<b>Total Hard Costs</b>	<b>\$ 21,824,715</b>	
<b>Soft Cost/Fees</b>		
Architect	\$ 1,500,000	
Acquisition OH/Closing Costs	\$ 52,618	
Owner's Rep	\$ 129,000	
Environmental	\$ 75,000	
Project Closing Costs	\$ 188,319	
Legal (Zoning, Finance, Permitting)	\$ 925,000	
Financing Costs (Equity/Debt)	\$ 288,438	
HTC Transaction Costs	\$ 262,650	
Due Diligence Costs	\$ 18,495	
Appraisal	\$ 15,000	
Licenses, Food, Liquor, etc.	\$ 20,000	
Property Taxes	\$ 110,000	
Opening Cost Allowance (Staffing, Brewery	\$ 899,784	

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Consultant, Operating  
Deficits, etc.)

Payroll, Other Insurance	\$	111,909	
Developer Labor and Overhead	\$	500,000	
General conditions, insurance, fees	\$	2,609,083	
Soft Cost Contingency	\$	693,000	
Operating Reserve - cash contingency	\$	325,000	
HTC Deferred Development Fee	\$	2,200,000	
Total Soft Costs	\$	10,923,296	
Interest Carry - Real Estate	\$	792,108	
Interest Carry - Bridge	\$	90,600	
Interest Carry - PACE	\$	279,333	
Interest Carry, Application - SBA	\$	180,674	
Interest Carry, NFP	\$	43,499	
Total Interest Costs	\$	1,386,214	
Total	\$	38,374,221	\$19,324,353
		<b>MBE 26%</b>	<b>\$5,024,332</b>
		<b>WBE 6%</b>	<b>\$1,159,461</b>

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## Exhibit C Insurance Requirements

Developer shall comply, and require its general contractor and subcontractors to comply, with the City's insurance requirements for the monitoring term. All Contractors and subcontractors are subject to the same insurance requirements of Developer unless otherwise specified in the Agreement.

Developer must furnish the Department of Planning and Development with the Certificates of Insurance, or such similar evidence, to be in force on the date of the Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of the Agreement. Developer must submit evidence of insurance prior to closing. Developer shall advise all Insurers of the Agreement provisions regarding insurance.

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

### **COMMERCIAL GENERAL LIABILITY INSURANCE (PRIMARY AND UMBRELLA)**

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability.

Coverage must include the following: All premises and operations, products/completed operations, explosion, collapse, underground, separation of insured, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

### **WORKERS COMPENSATION AND EMPLOYERS LIABILITY**

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

### **AUTOMOBILE LIABILITY (PRIMARY AND UMBRELLA)**

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.



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## Exhibit E Construction Compliance

### AGREEMENTS WITH CONTRACTORS

1. Bid Requirement for General Contractor and Subcontractors. Prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project, Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with, and having an office located in, the City of Chicago, and shall submit all bids received to DPD, if requested, for its inspection and written approval. (i) For the Improvements, Developer shall select the General Contractor, (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner.
2. Construction Contract. Prior to the Closing Date, the Developer must provide DPD with a certified copy of the Construction Contract, together with any modifications, amendments or supplements thereto, and upon DPD's request, a copy of any subcontracts. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the Improvements shall be provided to DPD within five (5) Business Days of the execution thereof.
3. Performance and Payment Bonds. Prior to the commencement of any portion of the Project which includes work on the public way, the Developer must require the General Contractor to be bonded for its payment by sureties having an AA rating or better using a bond in a form acceptable to the City. The City shall be named as obligee or co-obligee on any such bonds.
4. Employment Profile. Upon DPD's request, the Developer, the General Contractor and all subcontractors must submit to DPD statements of their respective employment profiles. Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the Construction Hiring Requirements.
5. Other Provisions. In addition to the requirements of Agreements with Contractors, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.05 (Change Orders), Exhibit E. Construction Hiring Requirements, and Section 9.01 (Books and Records) of the RDA.

### CONSTRUCTION HIRING REQUIREMENTS

1. Employment Opportunity. The Developer shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer operating on the Property (collectively, with the Developer, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:
  - (a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation,



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military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

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

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

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

(e) Each Employer shall include the foregoing provisions of subparagraphs (1) through (4) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this paragraph shall be a basis for the City to pursue its remedies under the Redevelopment Agreement.

2. Prevailing Wage. The Developer, the General Contractor and all subcontractors must pay the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all persons working on the Project. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the

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Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this Prevailing Wage.

3. City Resident Construction Worker Employment Requirement. The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

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

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

The Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of DPD in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

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

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

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to

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replace the actual, verified achievement of the requirements of this Paragraph concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Paragraph concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Paragraph. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether the Developer must surrender damages as provided in this paragraph.

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

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

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

(a) Consistent with the findings which support the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "MBE/WBE" Program"), Section 2-92-420 et seq., 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 paragraph 4., during the course of the Project, at least the following percentages of the MBE/WBE Budget attached hereto as Exhibit B (as these budgeted amounts may be reduced to reflect decreased actual costs) shall be expended for contract participation by MBEs or WBEs:

- i. At least 26 percent by MBEs  
And
- ii. At least 6 percent by WBEs.

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(b) For purposes of MBE/WBE Commitment only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a "contract" as such terms are defined in Section 2-92-420, Municipal Code of Chicago.

(c) Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer), or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as a General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this paragraph 4. The Developer or the General Contractor may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in its activities and operations other than the Project.

(d) Prior to the City's issuance of a Final Certificate, the Developer shall provide to DPD a final report describing its efforts to achieve compliance with this MBE/WBE commitment. Such report shall include inter alia the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist DPD in determining the Developer's compliance with this MBE/WBE commitment. DPD has access to the Developer's books and records including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with the Redevelopment Agreement, on five (5) Business Days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

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

(f) Any reduction or waiver of the Developer's MBE/WBE commitment as described in this paragraph 4 shall be undertaken in accordance with Section 2-92-450, Municipal Code of Chicago.

(g) Prior to the commencement of the Project, the Developer, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with regard to the Developer's compliance with its obligations under this Section 4. During this meeting, the Developer shall

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demonstrate to DPD its plan to achieve its obligations under this Section 4, the sufficiency of which shall be approved by DPD. During the Project, the Developer shall, upon the request of the monitoring staff of DPD, such interim reports as the monitoring staff may require, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that Developer is not complying with its obligations under this paragraph 4, shall, upon the delivery of written notice to Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to Developer to halt the Project, (2) withhold any further payment of any City Funds to Developer or the General Contractor, or (3) seek any other remedies against Developer available at law or in equity. Failure to submit such documentation on a timely basis, or a determination by DPD, upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder.

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## Exhibit F City Loan Terms

### TERMS AND CONDITIONS

The City Loan shall be made upon the following terms and conditions:

1. The principal sum of the City Loan is \$1,000,000.
2. The City Loan shall be evidenced by the Note. The Note shall be secured by the Mortgage and any other instruments under which the Developer has granted the City a lien or security interest in all or any portion of the Premises.
3. In any case where the date of payment of interest or principal of the Note shall not be a Business Day, then payment of such interest or principal need not be made on such date but may be made on the next succeeding Business Day. The Note shall continue to bear interest until such date of payment.
4. The interest rate on the City Loan is 5.3% per annum. Interest shall be computed on the outstanding principal balance of the Note from time to time on the basis of a year consisting of 360 days. Interest shall begin to accrue as of the date of disbursement of the City Loan proceeds to Developer.
5. The full amount of the City Loan shall be due and payable on the Maturity Date, or such earlier date as the same may become due and payable because of acceleration or prepayment as provided in this Agreement.
6. The City Loan may be prepaid by the Developer at any time, in whole or in part, at a price equal to 100% of the principal amount being prepaid plus any accrued and unpaid interest calculated as of such prepayment date; provided, however, that if Developer repays the principal amount of the City Loan within (6) months from the date of disbursement of the City Loan proceeds, then interest shall be forgiven. A prepayment of the City Loan shall not be deemed to release or terminate this Agreement.
7. To repay the City Loan, the Developer agrees to make all payments of interest and principal of the Note when due; provided, however, that if Developer repays the principal amount of the City Loan within (6) months from the date of disbursement of the City Loan proceeds, then interest shall be forgiven.
8. The obligations of the Developer to make the payments required hereunder shall be absolute and unconditional and shall be without defense (except payment) or set-off, to the extent permitted by law, by reason of any default by the City under this Agreement or under any other agreement between the Developer and the City, or for any other reason, including, without limitation, failure to complete the Project, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Premises, commercial frustration of purpose, any change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State of Illinois or any political subdivision of either, or any failure of the City to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement, it being the intention of the parties hereto that the payments required hereunder will be paid in full when due without any delay or diminution whatsoever.



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9. If any payment of principal or interest due on the Note, or any other charges due to the City as required under the Note, shall not be paid on the date such payment is due, the Developer shall pay the City as liquidated damages, and not as a penalty, an additional "late charge" of fifteen percent (15%) of such delinquent payment or the maximum permitted by law, whichever is less, in order to defray the increased cost of collection occasioned by any such late payments. Further, any such delinquent payments (not including interest payments) shall bear interest from and after the date due at the lesser of the rate of 15% per annum or the maximum rate permitted by law until so paid. Demand, presentment for payment, protest, notice of non-payment and notice of protest are hereby waived by the Developer.

## REMEDIES

10. Upon, or at any time after, the occurrence of an Event of Default hereunder, the City may elect to accelerate the maturity of the Note. Upon such election by the City, the principal sum remaining unpaid on the Note, together with all accrued interest thereon, shall be immediately due and payable at the place of payment as aforesaid, without presentment, demand, protest or notice of any kind, and the City may proceed to foreclose the Mortgage and to exercise any other rights and remedies available to the City under this Agreement, which the City may have at law, in equity or otherwise; provided, however, that upon the occurrence of an Event of Default under Section 10(x) or (xi) of the Mortgage, the entire unpaid principal of and interest, if any, on the Note shall, without any declaration, notice or other action on the part of the City, be immediately due and payable, anything in the Note to the contrary notwithstanding. Upon the occurrence of any Event of Default under Section 10(xvi) of the Mortgage, the City may pursue any remedies available to it hereunder.

11. Upon the occurrence of an Event of Default, the City may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of and interest on the Note, and to enforce and compel the performance of the duties and obligations of the Developer as herein set forth; notwithstanding the foregoing, Developer shall be entitled to the cure period rights set forth in Section 11.03 of this Agreement.

12. In case the City shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the City, then and in every such case, the Developer and the City shall be restored respectively to their respective positions and rights hereunder, and all rights, remedies and power of the Developer and the City shall continue as though no such proceedings had been taken.

13. In the event the Developer should default under any of the provisions of this Agreement and the City should employ attorneys or incur other costs for the collection of the payments due under this Agreement or the Note or the enforcement of performance or observance of any obligation or agreement on the part of the Developer herein contained, the Developer agrees that it will, on demand therefor, pay to the City the fees of such attorneys and such other costs so incurred by the City.

14. The remedies of the City, as provided in this Agreement or any other instruments securing the Note shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of the City and may be exercised as often as occasion therefor shall arise, and shall not be exclusive but shall be in addition to every other remedy now or hereafter existing at law, in equity, or by

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statute. Except as otherwise specifically required herein, notice of the exercise of any right or remedy granted to the City hereunder or by the Note is not required to be given.

15. (a) The indebtedness evidenced by the Note shall be non-recourse, and in the event of default hereunder or thereunder, the City's sole source of satisfaction of repayment of the amounts due to the City hereunder shall be limited to the City's rights with respect to the collateral pledged and assigned under the Mortgage.

(b) Notwithstanding paragraph (a) of this Section, nothing herein shall limit the rights of the City, following any of the events hereinafter described, to take any action as may be necessary or desirable to pursue the Developer, for any and all Losses incurred by the City arising from: (i) a material misrepresentation, fraud made in writing or misappropriation of funds by the Developer, its sole member and/or the owner, if any; (ii) intentional or material waste to the Premises; (iii) use of proceeds of the City Loan for costs other than Eligible Costs; (iv) any breach of the Developer's representations, warranties or covenants regarding Hazardous Materials or Environmental Laws; (v) the occurrence of any uninsured casualty to the Premises or other collateral or security provided under this Agreement for which there has been a failure to maintain insurance coverage as required by the terms and provisions of this Agreement; (vi) the misappropriation or misapplication of insurance proceeds or condemnation awards relating to the Premises or other collateral or security provided under this Agreement; or (vii) any inaccuracy in the statements in the EDSs.

16. The City waives any and all right to seek or demand any personal deficiency judgement against the Developer, in conjunction with a foreclosure proceeding, under or by reason of the non-recourse monetary obligations of the Developer; provided, however, that the foregoing shall not limit or affect the City's right to sue or otherwise seek recourse against the Developer in any separate action or proceeding for all Losses incurred by the City arising from any of the matters described herein.



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## Exhibit G Note

### NOTE (STSC)

Chicago, Illinois

February 1, 2024

\$1,000,000

FOR VALUE RECEIVED, the undersigned, Our Revival Chicago Operating Company, LLC, an Illinois limited liability company ("OPCO" or the "Maker"), hereby promises to pay to the order of the City of Chicago, Illinois ("Holder") at its Department of Finance, 121 North LaSalle Street, Suite 700, Chicago, Illinois 60602, or at such other place as Holder may appoint, the principal sum of ONE MILLION DOLLARS (\$1,000,000) together with interest thereon at a rate of 5.3% per annum on the outstanding principal balance from time to time, payable as follows:

The entire principal balance outstanding, together with any other sums due under any of the Loan RDA, shall be due and payable on or before 365 days following disbursement of the City Loan proceeds to Developer (the "Maturity Date"); provided, however, that the term "Maturity Date" shall also mean such earlier dates as of which the principal of and interest on the Loan may become due and payable because of acceleration or prepayment as provided in the Loan RDA.

All such payments shall be made payable to "City of Chicago, Attention: Ramova Theater Loan Repayment Fund," or as otherwise directed by the City.

Any interest charged on this Note will accrue on the basis of a year consisting of 360 days, comprised of 12 months of 30 days each.

The payment of the indebtedness evidenced by this Note is secured by the Mortgage and any other instruments under which Holder has granted the City a lien or security interest in all or any portion of the Premises. In connection with the Loan by Holder to Maker and that certain Ramova Theater Redevelopment Agreement (Sales Tax Securitization Corporation Loan) dated of even date herewith between Holder and Maker (the "Loan RDA"), Maker has executed and delivered this Note to Holder to be used to pay directly or reimburse Maker for costs of Improvements of the Premises as described on Exhibit B to the Loan RDA. All capitalized terms used but not otherwise defined herein shall have the same meanings assigned to those terms in the Loan RDA.

This Note may be prepaid by Maker at any time, in whole or in part, at a price equal to 100% of the principal amount being prepaid plus any accrued and unpaid interest calculated as of such prepayment date; provided, however, that if Developer repays the principal amount of the City Loan within (6) months from the date of disbursement of the City Loan proceeds, then interest shall be forgiven.

If any payment of principal or interest due on the Note, or any other charges due to the City as required under this Note or the Loan RDA, shall not be paid on the date such payment is due, the Developer shall pay the City as liquidated damages, and not as a penalty, an additional "late charge" of fifteen percent (15%) of such delinquent payment or the maximum permitted by law, whichever is less,

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in order to defray the increased cost of collection occasioned by any such late payments. Further, any such delinquent payments (not including interest payments) shall bear interest from and after the date due at the lesser of the rate of fifteen percent (15%) per annum or the maximum rate permitted by law until so paid. Demand, presentment for payment, protest, notice of non-payment and notice of protest are hereby waived by the Maker.

Maker will pay all costs and expenses of collection, including reasonable attorneys' fees, incurred or paid by Holder in enforcing this Note or the obligations evidenced by the Loan RDA to the extent permitted by law.

Maker hereby waives presentment, demand, notice, protest and all other demands or notices in connection with the delivery, acceptance, endorsement, performance, default or enforcement of this Note, except as may be specifically set forth in the Loan RDA as to notices.

Holder is expressly authorized to apply payments made under this Note as Holder may elect against any and all amounts, or portions thereof, then due and payable to Holder hereunder or under the Loan RDA.

Upon Maker's failure to pay, when due, any installment of principal or interest, if any, on this Note in accordance with the terms hereof or upon Maker's failure to pay when due (including any applicable notice and/or cure periods) and other sums or perform or observe any covenant, term or provision hereof on a timely basis as required hereunder (which failure to perform or observe (which shall not include any failure or event described in any of clauses (iii) through (xix) of Section 10 of the Mortgage) remains unremedied for 30 days after notice thereof from Holder to Maker or as such period may be extended pursuant to the Mortgage; provided, however, that Holder shall not be precluded during any such periods from exercising any remedies available under the Loan RDA if its security becomes or is about to become materially jeopardized by any such failure), or upon the occurrence of an Event of Default under the Loan RDA, then, at the option of Holder hereof, Holder may elect without notice to Maker to accelerate the maturity of this Note and upon such election the principal sum remaining unpaid hereon, together with accrued interest, if any, hereon and any additional indebtedness due by Maker to Holder under the Loan RDA, shall become at once due and payable at the place of payment as aforesaid, and Holder may proceed to foreclose the Mortgage and to exercise any rights and remedies available to Holder under the Loan RDA and to exercise any other rights and remedies against Maker or with respect to this Note which Holder may have at law, in equity or otherwise; provided, however, that upon the occurrence of an Event of Default under Section 10(x) or (xi) of the Mortgage, the entire unpaid principal of and interest, if any, on this Note shall, without any declaration, notice or other action on the part of Holder, be immediately due and payable, anything in this Note or the Loan RDA to the contrary notwithstanding. None of the rights or remedies of Holder hereunder or under the Loan RDA are to be deemed waived or affected by any failure to exercise same. All remedies conferred upon Holder by the Loan RDA or any other instrument, document or agreement to which Maker is a party or under which Maker is bound, shall be cumulative and not exclusive; any such remedies may be exercised singularly, concurrently or consecutively at Holder's option.

Notwithstanding the foregoing, the holder agrees that Maker's sole member shall have the right, but not the obligation, to cure any default under the Loan RDA, and the Holder agrees to accept or reject any such cure as if tendered by Maker.

No delay or omission on the part of Holder in exercising any right hereunder shall operate as a waiver of such right or of any other right of Holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or any other right on any future occasion.

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The parties hereto intend and believe that each provision in this Note comports with all applicable law. However, if any provision in this Note is found by a court of law to be in violation of any applicable law, and if such court should declare any provision of this Note to be unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such provision shall be given full force and effect to the fullest possible extent that is legal, valid and enforceable, that the remainder of this Note shall be construed as if such unlawful, void or unenforceable provision were not contained herein, and that the rights, obligations and interests of Maker and Holder under the remainder of this Note shall continue in full force and effect.

Upon any endorsement, assignment or other transfer of this Note by Holder or by operation of law, the term "Holder" as used herein shall mean such endorsee, assignee or other transferee or successor. This Note shall inure to the benefit of Holder, its successors and assigns and shall be binding upon Maker, its successors and assigns.

MAKER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE STATE OF ILLINOIS, AND WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT, AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS BE MADE AND BE EFFECTIVE IN THE MANNER PRESCRIBED FOR NOTICES AS SET FORTH HEREIN. MAKER HEREBY WAIVES TRIAL BY JURY, ANY OBJECTION BASED UPON FORUM NON CONVENIENS, AND ANY OBJECTION TO VENUE OF ANY ACTION INSTITUTED HEREUNDER. NOTHING IN THIS PARAGRAPH SHALL AFFECT THE RIGHT OF HOLDER TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF HOLDER TO BRING ANY ACTION OR PROCEEDING AGAINST MAKER OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION.

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

IF TO HOLDER:

Department of Planning and Development  
City of Chicago  
121 North LaSalle Street  
Room 1000  
Chicago, Illinois 60602  
Attention: Commissioner

WITH COPIES TO:

Office of the Corporation Counsel  
City of Chicago  
121 North LaSalle Street, Room 600  
Chicago, Illinois 60602  
Attention: Finance and Economic  
Development Division

and

Department of Finance  
City of Chicago  
121 North LaSalle Street, Suite 700  
Chicago, Illinois 60602

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Attention: Comptroller

IF TO MAKER:

Our Revival Chicago Operating Company, LLC  
921 West 34<sup>th</sup> Street  
Chicago, Illinois 60608  
Attention: Tyler Nevius

with a copy to

Dykema Gossett PLLC  
10 S. Wacker Drive, Suite 2300  
Chicago, Illinois 60606  
Attention: Andrew Scott, Esq.

And to

Byline Bank  
10 North Martingale Road, Suite 160  
Schaumburg, Illinois 60173

Such addresses may be changed by notice to the other parties given in the same manner as above provided. Any notice, demand or request sent pursuant to either clause (a) or (b) above shall be deemed received upon such personal service or upon dispatch by electronic means with confirmation of receipt. Any notice, demand or request sent pursuant to clause (c) above shall be deemed received on the Business Day immediately following deposit with the overnight courier and, if sent pursuant to clause (d) above, shall be deemed received two Business Days following deposit in the mail.

This Note shall be construed and enforced according to the internal laws of the State of Illinois without regard to its conflict of laws principles.

Subject to the terms contained in the next two succeeding paragraphs, the indebtedness evidenced by this Note shall be non-recourse and in the event of default hereunder, Holder's sole source of satisfaction of repayment of the amounts due to Holder hereunder or under the Loan RDA shall be limited to Holder's rights with respect to the collateral pledged and assigned under the Mortgage or the Loan RDA.

Notwithstanding the immediately preceding paragraph, nothing herein or in the Loan RDA shall limit the rights of Holder, following any of the events hereinafter described, to take any action as may be necessary or desirable to pursue Maker for any and all Losses incurred by Holder arising from: (i) a material misrepresentation, fraud made in writing or misappropriation of funds by Maker, its sole member, if any, and/or owner, if any, (ii) intentional, or material waste to the Premises; (iii) use of proceeds of the Loan for costs other than Eligible Costs; (iv) the occurrence of a Prohibited Transfer (as defined in the Mortgage) without Holder's prior written consent, to the extent such Prohibited Transfer results from the intentional, willful, voluntary and/or negligent acts or omissions of Maker, its sole member, if any, and/or owner, if any; (v) any breach of Maker's representations, warranties or covenants regarding Hazardous Materials or Environmental Laws contained in the Loan RDA; (vi) the occurrence of any uninsured casualty to the Premises or other collateral or security provided under the Loan RDA for which there has been a failure to maintain insurance coverage as required by the terms and provisions of the Loan RDA; (vii) the

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misappropriation or misapplication of insurance proceeds or condemnation awards relating to the Premises or other collateral or security provided under the Loan RDA; or (viii) any inaccuracy in the statements in the EDS.

Holder waives any and all right to seek or demand any personal deficiency judgment against Maker, in conjunction with a foreclosure proceeding, under or by reason of any of the non-recourse monetary obligations of Maker; provided, however, that the foregoing shall not limit or affect Holder's right to sue or otherwise seek recourse against Maker in any separate action or proceeding for all Losses incurred by Holder arising from any of the matters described in the immediately preceding paragraph hereof.

In any case where the date of payment of interest, if any, on or principal of this Note shall not be a Business Day, then payment of such interest or principal need not be made on such date but may be made on the next succeeding Business Day and, if interest is charged on this Note, this Note shall continue to bear interest until such date of payment.

THE TERMS AND PROVISIONS OF THE LOAN RDA ARE HEREBY INCORPORATED BY REFERENCE AND MADE A PART OF THIS NOTE.

[SIGNATURE PAGE TO FOLLOW]

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IN WITNESS WHEREOF, Maker has caused this Note to be duly executed on the date first above written.

**OUR REVIVAL CHICAGO OPERATING COMPANY,  
LLC, an Illinois limited liability company**

By: Our Revival Syndicate, LLC, an Illinois limited liability company, its sole member

By: \_\_\_\_\_  
Tyler Nevius, Executive Manager

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