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## JADE GARDEN REDEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF CHICAGO

AND

JADE GARDEN LIMITED PARTNERSHIP

This agreement was prepared by  
and after recording return to:  
Paul Davis, Esq.  
City of Chicago Law Department  
121 North LaSalle Street, Room 511  
Chicago, IL 60602

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## LIST OF EXHIBITS

Exhibit A Redevelopment Area  
Exhibit B Property  
Exhibit C TIF-Funded Improvements  
Exhibit D Redevelopment Plan  
Exhibit E Construction Contract  
Exhibit F Escrow Agreement  
Exhibit G Permitted Liens  
Exhibit H City-Funded Project Budget  
Exhibit I Approved Prior Expenditures  
Exhibit J Opinion of Developer's Counsel  
Exhibit K Conditional Provisions  
Exhibit L Site Plan

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[leave blank 3" x 5" space for recorder's office]

This agreement was prepared by and  
after recording return to:  
Paul Davis, Esq.  
City of Chicago Law Department  
121 North LaSalle Street, Room 511  
Chicago, IL 60602

## JADE GARDEN REDEVELOPMENT AGREEMENT

This Jade Garden Redevelopment Agreement (this "Agreement") is made as of this 9<sup>th</sup> day of September, 1996, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Jade Garden Limited Partnership, an Illinois limited partnership (the "Developer").

### RECITALS

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

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (1992 State Bar Edition), as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions through the use of tax increment allocation financing for redevelopment projects.

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "the City Council")

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adopted the following ordinances on December 18, 1986; (1) "An Ordinance of the City of Chicago, Illinois, Concerning the Approval of Tax Increment Redevelopment Plan for Chinatown Redevelopment Tax Increment Financing Project"; (2) "An Ordinance of the City of Chicago, Illinois, Concerning the Designation of Chinatown Area as a Redevelopment Project Area Pursuant to Tax Increment Allocation Redevelopment Project Act"; and (3) "An Ordinance of the City of Chicago, Illinois, Concerning the Adoption of Tax Increment Allocation Financing for Chinatown Redevelopment Tax Increment Financing Project" (the "TIF Adoption Ordinance"), (collectively referred to herein as the "TIF Ordinances"). The redevelopment project area (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Project: The Developer has purchased (the "Acquisition") certain property located within the Redevelopment Area at 330-332 West Cermak Road, 336-338 West Cermak Road and 2156-2162 South Tan Court, Chicago, Illinois 60616 and legally described on Exhibit B hereto (the "Property"), and shall commence and complete construction of an approximately three buildings containing 72 units, each with two or three bedrooms, of housing for low income individuals (such buildings, collectively, the "Facility") thereon. The Facility, related improvements and related public improvements (including but not limited to the City-Funded Project as defined below) are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The project will be carried out in accordance with this Agreement and the City of Chicago Chinatown Basin Tax Increment Redevelopment Area Redevelopment Plan and Project, dated October, 1986 (the "Redevelopment Plan") attached hereto as Exhibit D, as amended from time to time.

F. City Financing: The City agrees to use, in the amounts set forth in Section 4.03 hereof, Incremental Taxes (as defined below), to pay for or reimburse the Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement.

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

## SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this agreement by reference.

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## SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

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

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

"Change Order" shall mean any amendment or modification to the City Scope Drawings, City Plans and Specifications or the City-Funded Project Budget as described in Section 3.03, Section 3.04 and Section 3.05, respectively.

"Chinatown Area TIF Fund" shall mean the special tax allocation fund known as the General Account Fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

"City Fee" shall mean the fee described in Section 4.05(b) hereof.

"City-Funded Project" shall mean the construction of certain public improvements with respect to the Project pursuant to the City Plans and Specifications.

"City-Funded Project Budget" shall mean the budget attached hereto as Exhibit H, showing the total cost of the City-Funded Project by line item, furnished by the Developer to DPD, in accordance with Section 3.03 hereof.

"City-Funded Project Certificate" shall mean the Certificate of Completion of Construction for the City-Funded Project described in Section 7.01 hereof.

"City Funds" shall mean the funds described in Section 4.03(b) hereof.

"City Plans and Specifications" shall mean final construction documents containing a site plan and working drawings and specifications for the City-Funded Project.

"City Scope Drawings" shall mean preliminary construction documents containing a site plan and preliminary drawings and specifications for the City-Funded Project.

"Closing Date" shall mean the date of execution and delivery

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of this Agreement by all parties hereto.

"Construction Contract" shall mean that certain contract, in the form attached hereto as Exhibit E, which has been entered into between the Developer and the General Contractor providing for construction of the City-Funded Project.

"Corporation Counsel" shall mean the City's Office of Corporation Counsel.

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

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago.

"Equity" shall mean funds of the Developer irrevocably available for the City-Funded Project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.06 (Cost Overruns) or Section 4.03(b).

"Escrow" shall mean the construction escrow established pursuant to the Escrow Agreement.

"Escrow Agreement" shall mean the Escrow Agreement (or an amendment to an existing escrow agreement relating to the Project) establishing a construction escrow, to be entered into as of the date hereof by the City, the Title Company (or an affiliate of the Title Company), the Developer and, if necessary, the Developer's lender, substantially in the form of Exhibit F attached hereto.

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

"Financial Statements" shall mean, for any entity, complete audited financial statements of the entity prepared by a certified public accountant in accordance with generally accepted accounting

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principles and practices consistently applied throughout the appropriate periods.

"First Construction Disbursement" shall mean the first disbursement from the Escrow subsequent to the Closing Date related to construction or development costs.

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

"General Partner" shall mean Jade Garden Developers Limited Partnership, an Illinois limited partnership.

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

"Incremental Taxes" shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago or deposit by the Treasurer into a special tax allocation fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof; provided, that Incremental Taxes shall only include incremental taxes in excess of the incremental taxes pledged or allocated in connection with the issuance and repayment of the City's Chinatown Tax Increment Allocation Bonds, Series 1996A.

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

"Municipal Code" shall mean the Municipal Code of the City of Chicago.

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

"Permitted Liens" shall mean those liens and encumbrances against the Property and/or the City-Funded Project set forth on Exhibit G.

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

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

"Street Improvements" shall mean all necessary public improvements in and to the Street Parcel, such as water, sewer and street lights, as are set forth in the City Plans and Specifications.

"Street Parcel," as used in this Agreement, shall mean the right of way to be dedicated to the City in accordance with Section 8.22 hereof, which is identified on the site plan attached hereto as Exhibit L.

"Survey" shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property dated within 180 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property).

"Term of the Agreement" shall mean the period of time commencing on the Closing Date and ending when the Redevelopment Area is no longer in effect (through and including August, 2009).

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

"Title Company" shall mean Title Services, Inc.

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

## SECTION 3. THE PROJECT

3.01 The Project. With respect to the City-Funded Project, the Developer, pursuant to the City Plans and Specifications: (i) shall commence construction no later than July 31, 1996; and (ii) shall complete construction no later than December 31, 1996.

3.02 City Scope Drawings and City Plans and Specifications. The Developer has delivered the City Scope Drawings and City Plans

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and Specifications to DPD and DPD has approved same. After such initial approval, subsequent proposed changes to the City Scope Drawings or City Plans and Specifications shall be submitted to DPD as a Change Order pursuant to Section 3.04 hereof. The City Scope Drawings and City Plans and Specifications shall at all times conform to the Redevelopment Plan as amended from time to time and all applicable federal, state and local laws, ordinances and regulations. The 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.

3.02 City-Funded Project Budget. The Developer has furnished to DPD, and DPD has approved, a City-Funded Project Budget showing total costs for the City-Funded Project in an amount not less than Four Hundred Twenty-five Thousand Dollars (\$425,000). The Developer hereby certifies to the City that (a) the City Funds, together with Equity described in Section 4.02 hereof, shall be sufficient to complete the City-Funded Project; and (b) the City-Funded Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the City-Funded Project Budget for approval pursuant to Section 3.04 hereof.

3.04 Change Orders. Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) must be submitted by the Developer to DPD for DPD's prior written approval. The Developer shall not authorize or permit the performance of any work relating to such Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval. The Construction Contract, each contract between the General Contractor and any subcontractor and any other contracts relating to the construction of the City-Funded Project, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of Incremental Taxes which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. Notwithstanding anything to the contrary in this Section 3.04, Change Orders costing less than Five Thousand Dollars (\$5,000.00) each, to an aggregate amount of Twenty-Five Thousand Dollars (\$25,000.00), do not require DPD's prior written approval as set forth in this Section 3.04, but DPD shall be notified in writing of all such Change Orders prior to the implementation thereof and the Developer, in connection with such notice, shall identify to DPD the source of funding therefor.

3.05 DPD Approval. Any approval granted by DPD of the City Scope Drawings, City 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

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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 City-Funded Project.

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

3.07 Progress Reports and Survey Updates. The Developer shall provide DPD with written monthly progress reports detailing the status of the City-Funded Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section 3.04). The Developer shall provide three (3) copies of an updated Survey to DPD upon the request of DPD or any lender to the Developer, reflecting improvements made to the Property.

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

3.09 Barricades. Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. DPD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10 Signs and Public Relations. The Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the Project, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications.

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3.11 Utility Connections. The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the Property, provided the Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12 Permit Fees. In connection with the City-Funded Project, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

## SECTION 4. FINANCING

4.01 Total City-Funded Project Cost and Sources of Funds. The cost of the City-Funded Project is estimated to be \$425,000, to be applied in the manner set forth in the City-Funded Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <u>Sections 4.03(b) and 4.06</u> )	\$ 0
Estimated City Funds (subject to <u>Section 4.03</u> )	425,000
<b>ESTIMATED TOTAL</b>	<b>\$ 425,000</b>

4.02 Developer Funds. Equity may be used to pay any Project or City-Funded Project cost, including but not limited to Redevelopment Project Costs.

### 4.03 City Funds.

(a) Uses of City Funds. City Funds may be used to pay directly or reimburse the Developer for costs of TIF-Funded Improvements only that constitute Redevelopment Project Costs. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the City-Funded Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein, contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to reserve City funds from Incremental Taxes in the maximum amount of \$425,000 (the "City Funds") to pay for or reimburse the Developer for the costs of the TIF-Funded Improvements; the City shall be obligated to provided City Funds hereunder only to the extent that Incremental Taxes are available.

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4.04 Construction Escrow. The City and the Developer hereby agree to enter into the Escrow Agreement. All disbursements of City-Funded Project funds (except for the Prior Expenditures) shall be made through the funding of draw requests with respect thereto pursuant to the Escrow Agreement and this Agreement. In case of any conflict between the terms of this Agreement and the Escrow Agreement, the terms of this Agreement shall control.

## 4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Prior Expenditures. Only those expenditures made by the Developer with respect to the City-Funded Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the City-Funded Project Budget, shall be considered previously contributed Equity hereunder (the "Prior Expenditures"). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. Exhibit I hereto sets forth the prior expenditures approved by DPD as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity required to be contributed by the Developer pursuant to Section 4.01 hereof.

(b) City Fee. The City may allocate the sum of Sixty Thousand Dollars (\$60,000) for payment of costs incurred by the City for the administration and monitoring of the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds nor shall the Developer be required to pay such fee.

(c) Allocation Among Line Items. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of DPD, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$10,000 or \$50,000 in the aggregate, may be made without the prior written consent of DPD.

4.06 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to Section 4.03 hereof, the Developer shall be solely responsible for such excess costs, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds.

## SECTION 5. CONDITIONS PRECEDENT

The following conditions shall be complied with to the City's satisfaction within the time periods set forth below or, if no time

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period is specified, prior to the Closing Date:

5.01 City-Funded Project Budget. The Developer shall have submitted to DPD, and DPD shall have approved, a City-Funded Project Budget in accordance with the provisions of Section 3.03 hereof.

5.02 City Scope Drawings and City Plans and Specifications. The Developer shall have submitted to DPD, and DPD shall have approved, the City Scope Drawings and City Plans and Specifications in accordance with the provisions of Section 3.02 hereof.

5.03 Other Governmental Approvals. Not less than five (5) days prior to the First Construction Disbursement, the Developer shall have secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and shall submit evidence thereof to DPD.

5.04 Equity. The Developer shall have furnished proof reasonably acceptable to the City that the Developer has Equity in the amounts set forth in the City-Funded Project Budget to complete the City-Funded Project and satisfy its obligations under this Agreement.

5.05 Evidence of Clean Title; Title Policies. (a) Not less than five (5) business days prior to the Closing Date, the Developer, at its own expense, shall have provided the City with copies of searches under the Developer's name (and the following trade names of the Developer, in the following locations, all of which such searches were delivered to the Illinois Housing Development Authority ("IHDA") by the Developer in connection with a loan made by IHDA to the Developer in December, 1995 (the "IHDA Loan")):

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search
Cook County Recorder	Fixtures 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

showing no liens against the Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

(b) On the Closing Date, the Developer shall furnish the City with a copy of the title policy for the Property which was delivered to IHDA in connection with the closing of the IHDA Loan. Prior to each disbursement of City Funds hereunder, the City shall

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have received from the Developer a copy of the most recent date-down of title policy delivered to IHDA, if any, in connection with the IHDA Loan.

5.06 Surveys. Not less than five (5) business days prior to the Closing Date, the Developer shall have furnished the City with three (3) copies of the Survey.

5.07 Insurance. The Developer, at its own expense, shall have insured the Property in accordance with Section 12 hereof. At least five (5) business days prior to the Closing Date, certificates required pursuant to Section 12 hereof evidencing the required coverages shall have been delivered to DPD.

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

5.09 Evidence of Prior Expenditures. Not less than twenty (20) business days prior to the Closing Date, the Developer shall have provided evidence satisfactory to DPD in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.05(a) hereof.

5.10 Financial Statements. Not less than five (5) days prior to the Closing Date, the Developer shall have provided to DPD Financial Statements for The Habitat Company and for the Chinese American Development Corporation, in each case for the 1994 and 1995 fiscal years of such entities.

5.11 Environmental. The Developer has provided DPD with copies of that certain phase I environmental audit completed with respect to the Property made by Dames & Moore and dated June 1, 1990.

5.12 Organizational Documents. The Developer shall provide, for itself and the General Partner, a copy of its Articles of Limited Partnership, certified by the General Partner as of the Closing Date. The Developer shall also provide a Certificate of Existence for the Developer and the General Partner from the Secretary of State of the State of Illinois and all other states in which the Developer or the General Partner is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; and such other documentation as the City may request.

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5.13 Litigation. There are no pending or threatened litigation or administrative proceedings involving the Developer.

5.14 Preconditions of Disbursement. Prior to each disbursement of City Funds hereunder, the Developer shall submit documentation of such expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by the Developer to DPD of any request of disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for disbursement, that:

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

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

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

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

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

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

(g) the City-Funded Project is In Balance. The City-Funded Project shall be deemed to be in balance ("In Balance") only if the total of the Available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid City-Funded Project costs incurred or to be incurred in the completion of the City-Funded Project. "Available Project Funds" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Equity and (iii) any other amounts deposited by the Developer pursuant to this Agreement. The Developer hereby agrees that, if the City-Funded Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the City or the escrow agent, cash in an amount that will place the City-Funded Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall

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be made.

The Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in this Agreement and/or the Escrow Agreement.

## SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 General Contractor and Subcontractors. The Developer shall submit copies of the Construction Contract to DPD in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the City-Funded Project until the City Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

6.02 Construction Contract. Prior to the execution of this Agreement, the Developer shall have delivered to DPD a copy of the Construction Contract with the General Contractor selected to handle the City-Funded Project in accordance with Section 6.01 above. Within ten (10) business days after execution of any contract relating to the construction of the City-Funded Project by the Developer, the General Contractor and any other parties thereto, the Developer shall deliver to DPD and Corporation Counsel a certified copy of such contract. The Developer shall deliver to DPD copies of any modifications, amendments or supplements to any contracts referenced in this section within ten (10) days after the execution thereof.

6.03 Performance and Payment Bonds. Prior to commencement of construction, the Developer shall require that the General Contractor be bonded for its performance and payment by sureties having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. The City shall be named as obligee or co-obligee on such bond.

6.04 Employment Opportunity. The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Section 10 hereof.

6.05 Local Contractors and Vendors. The Developer shall use its best efforts to ensure that all contracts entered into in connection with the TIF-Funded Improvements for work done, services provided or materials supplied shall be let (by the Developer, the General Contractor or any subcontractor) to persons or entities whose main office and place of business is located within the City

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of Chicago. The Construction Contract and each contract between the General Contractor and any subcontractor shall contain a provision to this effect.

6.06 Other Provisions. In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof.

## SECTION 7. COMPLETION OF CONSTRUCTION

7.01 Certificate of Completion of Construction. Upon completion of the construction of the City-Funded Project in accordance with the terms of this Agreement and after the final disbursement from the Escrow, and upon the Developer's written request, DPD shall issue to the Developer a City-Funded Project Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the City-Funded Project in accordance with the terms of this Agreement. DPD shall respond to the Developer's written request for a City-Funded Project Certificate within thirty (30) days by issuing either a City-Funded Project Certificate or a written statement detailing the ways in which the City-Funded Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the City-Funded Project Certificate. The Developer may resubmit a written request for a City-Funded Project Certificate upon completion of such measures.

7.02 Effect of Issuance of Certificate; Continuing Obligations. The City-Funded Project Certificate relates only to the construction of the City-Funded Project, and upon any issuance of such a certificate, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of a City-Funded Project Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the City-Funded Project Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

The executory terms of this Agreement that remain after the

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issuance of a City-Funded Project Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to Section 18.15 of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

7.03 Failure to Complete. If the Developer fails to complete the City-Funded Project in accordance with the terms of this Agreement, then the City shall have, but shall not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto;

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

(c) the right to seek reimbursement of the City Funds from the Developer.

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

## SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER.

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

(a) the Developer and the General Partner are each an Illinois limited partnership duly organized, validly existing and qualified to do business in Illinois, and each is 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) the Developer and the General Partner each have the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by the Developer

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of this Agreement has been duly authorized by all necessary action, and does not and will not violate its Articles of Limited Partnership 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 the Developer is now a party or by which the Developer is now or may become bound;

(d) unless otherwise permitted pursuant to the terms of this Agreement, the Developer shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property free and clear of all liens (except for the Permitted Liens and non-governmental charges that the Developer is contesting in good faith pursuant to Section 8.15 hereof);

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

(g) the Developer has and shall maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the City-Funded Project;

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

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

(j) the Developer 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

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liens against the Property other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property or any fixtures now or hereafter attached thereto.

8.02 Covenant to Redevelop. Upon DPD's approval of the City-Funded Project Budget, the City Scope Drawings and City Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall complete the Project and shall redevelop the Property, and the Developer shall complete the City-Funded Project in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the City Scope Drawings, City Plans and Specifications, City-Funded Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the City-Funded Project, the Property and/or the Developer.

8.03 Redevelopment Plan. The Developer represents that the City-Funded Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

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

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

8.06 [Intentionally Omitted.]

8.07 Employment Opportunity. The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 10 hereof.

8.08 Employment Profile. The Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DPD, from time to time, statements of

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its employment profile upon DPD's request.

8.09 Prevailing Wage. The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, 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 Section 8.09.

8.10 Cross-Length Transactions. Unless DPD shall have given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement.

8.11 Conflict of Interest. Pursuant to Section 5/11-74.4-4(n) of the Act, the 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 City-Funded Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or the 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 the Developer's business, the Property or any other property in the Redevelopment Area.

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

8.13 Financial Statements. Within one hundred twenty (120) days following the end of each calendar year during the Term of the Agreement, the Developer shall furnish the City with a complete annual financial report based upon an examination of the books and records of the Developer, prepared in accordance with the requirements of IHDA, certified by the Developer and certified by an Illinois licensed independent certified public accountant, or other person acceptable to the City, and/or any other financial reports which are furnished by the Developer to IHDA pursuant to

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the Regulatory Agreement dated as of December 1, 1995 between the Developer and IHDA with respect to the Project.

8.14 Insurance. The Developer, at its own expense, shall comply with all provisions of Section 12 hereof.

8.15 Non-Governmental Charges. (a) Payment of Non-Governmental Charges. Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the City-Funded Project, the Property or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or City-Funded Project; provided however, that if such Non-Governmental Charge may be paid in installments, the Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer shall furnish to DPD, within thirty (30) days of DPD's request, official receipts from the appropriate entity, or other proof satisfactory to DPD, evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. The Developer shall have the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

(ii) at DPD's sole option, to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

8.16 Developer's Liabilities. The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities or perform any material obligations of the

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Developer to any other person or entity. The Developer shall immediately notify DPD of any and all events or actions which may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

8.17 Compliance with Laws. To the best of the Developer's knowledge, after diligent inquiry, the Property and the City-Funded 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 City-Funded Project and the Property. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

8.18 [Intentionally Omitted.]

8.19 Conditional Provisions. The covenants set forth in Exhibit K hereto, in their entirety or selectively, will become effective at the sole option of the City and upon the City's receipt of an opinion from nationally recognized bond counsel that the effectiveness of those provisions will not adversely affect the tax-exempt status of the \$5,591,115 of Chinatown Tax Increment Allocation Bonds, Series 1990A issued by the City. In the event that the City exercises its option to make any covenant(s) in Exhibit K effective, it shall so notify the Developer in accordance with Section 17 hereof. Such notice (the "Conditional Provisions Notice") shall be in recordable form.

8.20 Affordable Housing Covenant. The Developer agrees and covenants to the City that, so long as the Use Agreement (defined below) is in effect, the provisions of that certain Extended Use Agreement dated as of December 1, 1995 between the Developer and IHDA with respect to the Project (the "Use Agreement") shall govern the terms of the Developer's obligation to provide affordable housing. Following the termination of the restrictions of the Use Agreement pursuant to the terms thereof (including by foreclosure), and from the date of such termination through the term of the Agreement, the following provisions shall govern the terms of the obligation of the Developer to provide affordable housing under this Agreement:

(a) All of the units in the Facility shall be available for occupancy to and be occupied solely by individuals or families whose income is less than or equal to sixty percent (60%) of area median gross income (including adjustments to family size) ("Low-Income Individuals or Families"), as determined in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, upon initial occupancy; and

(b) All of the units in the Facility shall have monthly rents not in excess of thirty percent (30%) of the maximum allowable

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income for Low Income Individuals or Families (with the applicable Family size for such units determined in accordance with the rules promulgated under the Illinois Affordable Housing Act); and

(c) The City and the Developer may enter into a separate agreement to implement the provisions of this Section 8.20.

8.21 Survival of Covenants. All warranties, representations, covenants and agreements of the Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

8.22 Plat of Subdivision; Improvement and Dedication of Street. The Developer has recorded a Plat of Subdivision regarding the Property, which reflects the Street Parcel, with the Recorder of Deeds of Cook County on December 6, 1995 as document number 95849665. Prior to October 31, 1996, the Developer shall cause the improvement and dedication to the City of the Street Parcel and the Street Improvements in accordance with the City Plans and Specifications. Upon substantial completion of all Street Improvements, the Developer shall make application to DPD for such dedication. The Developer shall take appropriate action, including making deposits for inspections and for work not completed by Developer, to cause the approval of the Street Improvements by all affected Board of Underground agencies in accordance with standard City standards and procedures for such dedication. Upon receipt of all such approvals, the City shall cause the dedication to be submitted for approval by the City Council. Upon approval by the City Council, the Developer shall cause the Plat of Dedication to be recorded with the Cook County Recorder of Deeds. Upon dedication, the Street Improvements shall become the property of the City.

## SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

9.01 General Covenants. The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder and that City Funds are available as of the date hereof to perform such obligations in accordance with the terms of this Agreement, and shall remain available to fund the City's obligations hereunder as same become due.

9.02 Survival of Covenants. All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the

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execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

## SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01 Employment Opportunity. The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of 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 City-Funded Project or occupation of the Property:

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

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

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the Redevelopment Area.

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

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

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

(f) Failure to comply with the employment obligations described in this Section 10.01 shall be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof.

10.02 City Resident Construction Worker Employment Requirement. 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 City-Funded 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 City-Funded 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 Purchasing Agent of the City.

"Actual residents of the City" shall mean persons domiciled

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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 City-Funded 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-247 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 Purchasing Agent, 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 City-Funded 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 Purchasing Agent) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the City-Funded 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 Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the City-Funded Project Budget (the product of .0005 x such aggregate hard construction costs) (as the

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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 Purchasing Agent'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 Section 10.02 to be included in all construction contracts and subcontracts related to the City-Funded Project.

10.03 The Developer's MBE/WBE Commitment. The 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 City-Funded 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 Section 10.03, during the course of the City-Funded Project, at least the following percentages of the total City-Funded Project Budget (less the acquisition price of the Property or any portion thereof, if any) shall be expended for contract participation by MBEs or WBEs:

- i. At least 25 percent by MBEs.
- ii. At least 5 percent by WBEs.

b. For purposes of this Section 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the City-Funded Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the City-Funded Project) shall be deemed a "contract" as such terms are defined in Section 2-92-420,

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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 City-Funded 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 City-Funded 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 City-Funded Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the City-Funded Project to one or more MBEs or WBEs, or by the purchase of materials used in the City-Funded 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 Section 10.03. 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 City-Funded Project.

d. The Developer shall deliver quarterly reports to DPD during the City-Funded Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include inter alia the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the City-Funded Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the City-Funded 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 shall have 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 Section 14 of this 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 City-Funded 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

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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 Section 10.03 shall be undertaken in accordance with Section 2-92-450, Municipal Code of Chicago.

g. During the City-Funded Project, the Developer shall submit the documentation required by this Section 10.03 to the monitoring staff of DPD. 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. 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 the Developer to halt the City-Funded Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

## SECTION 11. ENVIRONMENTAL MATTERS

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

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

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## SECTION 12. INSURANCE

The Developer shall procure and maintain, or cause to be procured and maintained, at its sole cost and expense, at all times throughout the Term of this Agreement (or during the construction period as specified at (b) below) and until each and every obligation of the Developer contained in the Agreement has been fully performed, the types of insurance specified below, with insurance companies authorized to do business in the State of Illinois covering all operations under this Agreement, whether performed by the Developer, the General Contractor or any subcontractor:

- (a) Prior to Execution and Delivery of this Agreement: At least ten (10) business days prior to the execution of this Agreement, the Developer shall procure and maintain, or cause to be procured and maintained, the following kinds and amounts of insurance:

- (i) Workers' Compensation and Occupational Disease Insurance

Workers' Compensation and Occupational Disease Insurance, in accordance with the laws of the State of Illinois or any other applicable jurisdiction, covering all employees who are to provide a service under or in connection with this Agreement, and employer's liability coverage, with limits of not less than \$100,000.00 for each accident or illness.

- (ii) Commercial Liability Insurance (Primary and Umbrella)

Commercial Liability Insurance or equivalent with limits of not less than \$1,000,000.00 per occurrence, combined single limit, for bodily injury, personal injury and property damage liability. Coverage extensions shall include the following: all premises and operations, products/completed operations, independent contractors, cross liability, personal injury with no exclusion pertaining to employment and contractual obligations, and contractual liability (with no limitation endorsement). The City of Chicago, its employees, elected officials, agents and representatives are to be named as additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Agreement.

- (b) Construction: Prior to the construction of any portion

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of the Project, the Developer shall procure and maintain, or cause to be procured and maintained, the following kinds and amounts of insurance:

(i) Workers' Compensation and Occupational Disease Insurance

Workers' Compensation and Occupational Disease Insurance, in accordance with the laws of the State of Illinois or any other applicable jurisdiction, covering all employees who are to provide a service under or in connection with this Agreement and employer's liability coverage with limits of not less than \$500,000.00 for each accident or illness.

(ii) Commercial Liability Insurance (Primary and Umbrella)

Commercial Liability Insurance or equivalent with limits of not less than \$4,000,000.00 per occurrence, combined single limit, for bodily injury, personal injury and property damage liability. Coverage extensions shall include the following: all premises and operations, products/completed operations (for a minimum of two (2) years following completion of construction of the Project) explosion, collapse, underground, independent contractors, cross liability, personal injury with no exclusion pertaining to employment and contractual obligations, and contractual liability (with no limitation endorsement). The City of Chicago, its employees, elected officials, agents and representatives are to be named as additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Agreement.

(iii) Railroad Protective Liability Insurance

When, in connection with this Agreement, any work is to be done adjacent to or on property owned by a railroad or public transit entity, the Developer shall procure and maintain, or cause to be procured and maintained, with respect to the operations that the Developer, the General Contractor or any subcontractor shall perform, Railroad Protective Liability Insurance in the name of such railroad or public transit entity. The policy shall have limits of not less than \$2,000,000 per occurrence, combined single limit, and \$6,000,000 in the aggregate for losses arising out of injuries to or

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death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(iv) Automobile Liability Insurance

When any motor vehicles (owned, leased, borrowed or otherwise) are used by the Developer, the General Contractor or any subcontractor for work to be performed in connection with this Agreement, the Developer shall procure and maintain, or cause to be procured and maintained, Comprehensive Automobile Liability Insurance with limits of not less than \$2,000,000.00 per occurrence combined single limit, for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(v) All Risk Builders Risk Insurance

When the Developer, the General Contractor or any subcontractor undertakes any construction, including improvements, betterments, and/or repairs, the Developer, the General Contractor or any such subcontractor shall provide All Risk Blanket Builder's Risk Insurance to cover the materials, equipment, machinery and fixtures that are or will be part of the permanent facilities. Coverage extensions shall include boiler and machinery, flood including surface water backup, and collapse. The City of Chicago shall be named as loss payee.

(vi) Professional Liability

When any architects, engineers, construction managers or consultants of any kind perform work in connection with this Agreement, Professional Liability insurance covering acts, errors or omissions shall be maintained with limits of not less than \$1,000,000.00. Coverage extensions shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Project. A claims-made policy that is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers Insurance

When any plans, designs, drawings, specifications

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and documents are produced or used in connection with this Agreement, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the re-creation and reconstruction of such items.

## (viii) Contractors' Pollution Liability Insurance

When any environmental remediation work is undertaken by the Developer, the General Contractor or any subcontractor in connection with this Agreement, Contractors' Pollution Liability Insurance shall be procured with limits of not less than \$1,000,000 covering all construction and related work undertaken in connection with this Agreement. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis. The Developer, the General Contractor and any subcontractor shall comply with any additional insurance requirements that are stipulated by the Interstate Commerce Commission's Regulations, Title 49 of the Code of Federal Regulations, Department of Transportation; Title 40 of the Code of Federal Regulations, Protection of the Environment and any other federal, state or local regulations concerning the removal and transportation of Hazardous Materials.

## (c) Other Provisions

(i) Delivery of certificates to City: At least five (5) business days prior to the Closing Date (unless otherwise specified) the Developer shall furnish the following certificates to DPD at City Hall, Room 1000, 121 North LaSalle Street, Chicago, Illinois 60602:

--Original certificates of insurance evidencing the required coverage, showing the City as a certificate holder and, if applicable, loss payee or additional insured, to be in force on the date of execution of this Agreement, and renewal certificates of insurance or other evidence of renewal, if the coverages have an expiration or renewal date occurring during the Term of the Agreement. Each certificate of insurance shall provide that the City is to be given sixty (60) days prior written notice in the event coverage is substantially changed, cancelled or not renewed; and

--Original City of Chicago Insurance Certificate of

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Coverage Form (blank form to be obtained from DPD).

The receipt of the required certificates by DPD does not constitute an agreement by the City that the insurance requirements of this Agreement have been fully met or that the insurance policies indicated on the certificates are in compliance with all requirements hereunder. The failure of the City to receive such certificates or to receive certificates that fully conform to the requirements of this Agreement shall not be deemed to be a waiver by the City of any of the insurance requirements set forth herein.

(ii) Receipt by the Developer of policies or certificates: The Developer shall advise all insurers of the insurance requirements set forth in this Agreement, and the receipt by the Developer of policies or certificates that do not conform to these requirements shall not relieve the Developer of its obligation to provide the insurance as set forth in this Agreement or required by law. Failure to comply with the insurance provisions of this Agreement constitutes an Event of Default hereunder, and the City is entitled to exercise all remedies with respect thereto. The Developer expressly understands and agrees that any coverages and limits furnished by Developer shall in no way limit the Developer's liability and responsibilities specified within this Agreement or as required by law.

(iii) The Developer shall require the General Contractor and all subcontractors to carry the insurance required herein, or alternatively, the Developer may provide the coverage on behalf of the General Contractor or any subcontractor, and if so, the evidence of insurance submitted shall so stipulate.

(iv) The Developer agrees, and shall cause its insurers and the insurers of its General Contractor and each subcontractor engaged after the date hereof in connection with the City-Funded Project to agree, that all such insurers shall waive their rights of subrogation against the City.

(v) The limitations set forth in the indemnification provisions in Section 13 hereof, or any limitations on indemnities that may apply as a matter of law, shall in no way limit, reduce or otherwise affect the amounts or types of insurance required under this Agreement.

(vi) The Developer and not the City is responsible for meeting all of the insurance requirements under this Agreement and for the City-Funded Project. Any insurance

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or self insurance programs maintained by the City shall apply in excess of and not contribute with insurance required to be provided by the Developer, General Contractor or any subcontractor under this Agreement.

Any and all deductibles or self-insured retentions on the required insurance coverages shall be borne by the Developer, General Contractor or subcontractor who is the insured under such policy, and shall not be borne by the City.

If the Developer, the General Contractor or any subcontractor desires additional coverage, higher limits of liability or other modifications for its own protection, such person or entity shall be responsible for the acquisition and cost of such additional protection.

(vii) The City of Chicago Risk Management Department maintains the right to modify or delete the insurance requirements set forth in this Agreement so long as such action does not, without the Developer's prior written consent, increase such requirements beyond that which is reasonably customary at such time.

## SECTION 13. INDEMNIFICATION

The Developer agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with (i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement, or (ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other City-Funded Project improvement, or (iii) the existence of any material misrepresentation or omission in this Agreement or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or its agents, employees, contractors or persons acting under the control or at the request of the Developer or (iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto.

## SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

14.01 Books and Records. The Developer shall keep and maintain separate, complete, accurate and detailed books and

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

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

## SECTION 15. DEFAULT AND REMEDIES

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

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

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

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

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

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

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

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

(h) the dissolution of the Developer or the death of any natural person who owns a material interest in the Developer; or

(i) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer or any natural person who owns a material interest in the Developer, which is not dismissed within thirty (30) days, or the indictment of the Developer or any natural person who owns a material interest in the Developer, for any crime (other than a misdemeanor).

For purposes of Sections 15.01(h) and 15.01(i) hereof, a person with a material interest in the Developer shall be one owning in excess of thirty-three percent (33%) of the Developer's general and/or limited partnership interests.

15.02 Remedies. Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein.

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15.03 Curative Period. In the event the Developer shall fail to perform a monetary covenant which the 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 the Developer shall have failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the 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 the Developer shall have failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

## SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit G hereto and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." The Existing Mortgage(s) and New Mortgage(s) are referred to herein collectively as the "Mortgage(s)," and the holder of any such Mortgage is referred to herein as a "Mortgagee." It is hereby agreed by and between the City and the Developer as follows:

(a) Acceptance of Assignment. In the event that any Mortgagee or any other party shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.16 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party shall have no liability under this Agreement for any Event of Default of the Developer

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which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible.

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

## SECTION 17. NOTICE

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

If to the City: City of Chicago  
Department of Planning and Development  
121 North LaSalle Street, Room 1000  
Chicago, IL 60602  
Attention: Commissioner

With Copies To: City of Chicago  
Department of Law  
Finance and Economic  
Development Division  
121 North LaSalle Street, Room 511  
Chicago, IL 60602

If to the Developer: Jade Garden Limited Partnership  
c/o The Habitat Company  
350 West Hubbard  
Chicago, IL 60610  
Attention: Linda Brace

With Copies To: The Habitat Company  
350 West Hubbard  
Chicago, IL 60610  
Attention: Jeffrey C. Rappin, Esq.

And To: Illinois Housing Development Authority  
401 North Michigan Avenue  
Ninth Floor  
Chicago, Illinois 60611  
Attention: General Counsel

Such addresses may be changed by notice to the other parties

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

## SECTION 18. MISCELLANEOUS

18.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended without the prior written consent of the City.

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

18.03 Limitation of Liability. No member, official or employee of the City shall be personally liable to the 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 the Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

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

18.05 Waiver. Waiver by the City or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing.

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

18.07 Disclaimer. Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent,

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limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

18.08 Headings. The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

18.09 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.

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

18.11 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, such ordinance(s) shall prevail and control.

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

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

18.14 Approval. Wherever this Agreement provides for the approval or consent of the City or DPD, or any matter is to be to the City's or DPD's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City or DPD in writing and in its sole discretion.

18.15 Assignment. Prior to the issuance by the City to the Developer of a City-Funded Project Certificate, the Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Notwithstanding the issuance of such certificate, any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Sections 8.19 (Conditional Provisions) and 8.20 (Survival of Covenants) hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.16 Binding Effect. This Agreement shall be binding upon the Developer, the City and their respective successors and

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permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein).

18.17 Force Majeure. Neither the City nor the 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.

18.18 Exhibits. All of the exhibits attached hereto are incorporated herein by reference.

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

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IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

JADE GARDEN LIMITED PARTNERSHIP, an Illinois limited partnership

By: JADE GARDEN DEVELOPERS LIMITED PARTNERSHIP, an Illinois limited partnership and its sole general partner

By: THE HABITAT COMPANY, an Illinois corporation and its sole general partner

By: M. W. Lambert

Its: President

ATTEST:

By: A. C. [Signature]

Its: Secretary

CITY OF CHICAGO

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

\_\_\_\_\_  
Commissioner, Department  
of Planning and Development

027-20985

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IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

JADE GARDEN LIMITED PARTNERSHIP, an Illinois limited partnership

By: JADE GARDEN DEVELOPERS LIMITED PARTNERSHIP, an Illinois limited partnership and its sole general partner

By: THE HABITAT COMPANY, an Illinois corporation and its sole general partner

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

Its: \_\_\_\_\_

ATTEST:

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

Its: \_\_\_\_\_

CITY OF CHICAGO

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

  
\_\_\_\_\_  
Commissioner, Department  
of Planning and Development

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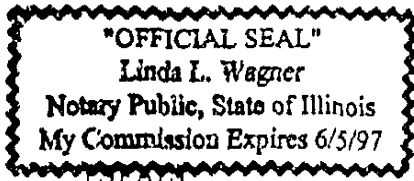
STATE OF ILLINOIS     )  
                                  )    ss  
COUNTY OF COOK        )

I, Linda L. Wagner, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Douglas R. Woodworth and Jeffrey C. Rappin, personally known to me to be the President and Secretary of The Habitat Company, an Illinois corporation (the "Corporation"), and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered said instrument, pursuant to the authority given to them by the Board of Directors of the Corporation, as their free and voluntary act and as the free and voluntary act of the Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 20th day of August, 1996.

Linda L. Wagner  
Notary Public

My Commission Expires 6/5/97



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