

## Contract Summary Sheet

**Contract (PO) Number:** 18615

**Specification Number:** 69626

**Name of Contractor:** CNA FINANCIAL CORP

**City Department:** PLANNING & DEVELOPMENT

**Title of Contract:** Redevelopment Agreement: 333 S. Wabash

**Term of Contract: Start Date:** 11/2/2006

**End Date:** 12/31/2008

**Dollar Amount of Contract (or maximum compensation if a Term Agreement) (DUR):**  
\$13,680,000.00

**Brief Description of Work:** Redevelopment Agreement: 333 S. Wabash

**Procurement Services Contract Area:** COMPTROLLER-OTHER

**Vendor Number:** 50097301

**Submission Date:**

OCT 24 2008

This recommendation was concurred in by a viva voce vote of the members of the Committee.

Respectfully submitted,

(Signed) EDWARD M. BURKE,  
*Chairman.*

On motion of Alderman Burke, the said proposed order transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Aldermen Flores, Haithcock, Tillman, Preckwinkle, Hairston, Lyle, Beavers, Stroger, Beale, Pope, Balcer, Cárdenas, Olivo, Burke, T. Thomas, Coleman, L. Thomas, Murphy, Rugai, Troutman, Brookins, Muñoz, Zalewski, Chandler, Solis, Ocasio, Burnett, E. Smith, Carothers, Reboyras, Suarez, Matlak, Mell, Austin, Colón, Banks, Mitts, Laurino, O'Connor, Doherty, Natarus, Daley, Tunney, Shiller, Schuler, M. Smith, Moore, Stone -- 48.

*Nays* -- None.

Alderman Beavers moved to reconsider the foregoing vote. The motion was lost.

The following is said order as passed:

*Ordered*, That the Corporation Counsel is hereby authorized and directed to enter into and execute a settlement agreement in the following matter: *Antoinette Collins-Lewis and Octavia Monique Morris, as Co-Independent Administrators of the Estate of Curtis Collins, Deceased v. City of Chicago and James Hickey*, cited as 01 L 12738, in the amount of \$2,000,000.

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DESIGNATION OF CNA FINANCIAL CORPORATION, CONTINENTAL  
ASSURANCE COMPANY, CONTINENTAL CASUALTY COMPANY  
AND THE CONTINENTAL CORPORATION AS PROJECT  
DEVELOPERS AND AUTHORIZATION FOR EXECUTION  
OF REDEVELOPMENT AGREEMENT FOR  
PROPERTY AT 333 SOUTH  
WABASH AVENUE.

The Committee on Finance submitted the following report:

CHICAGO, January 11, 2006.

*To the President and Members of the City Council:*

Your Committee on Finance, having had under consideration an ordinance authorizing entering into and executing a redevelopment agreement with CNA Financial Corporation, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

Respectfully submitted,

(Signed) EDWARD M. BURKE,  
*Chairman.*

On motion of Alderman Burke, the said proposed ordinance transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Aldermen Flores, Haithcock, Tillman, Preckwinkle, Hairston, Lyle, Beavers, Stroger, Beale, Pope, Balcer, Cárdenas, Olivo, Burke, T. Thomas, Coleman, L. Thomas, Murphy, Rugai, Troutman, Brookins, Muñoz, Zalewski, Chandler, Solis, Ocasio, Burnett, E. Smith, Carothers, Reboyras, Suarez, Matlak, Mell, Austin, Colón, Banks, Mitts, Laurino, O'Connor, Doherty, Natarus, Daley, Tunney, Shiller, Schuller, M. Smith, Moore, Stone -- 48.

*Nays* -- None.

Alderman Beavers moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, Pursuant to an ordinance adopted by the City Council ("City Council") of the City of Chicago (the "City") on February 7, 1997 and published at pages 38260 -- 38399 of the *Journal of the Proceedings of the City Council of the City of Chicago* (the "*Journal*") of such date, a certain redevelopment plan and project for the Central Loop Redevelopment Project Area (the "Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended

(65 ILCS 5/11-74.4-1, et seq.) (the "Act"), and amended pursuant to an ordinance adopted on May 17, 2000 and published at pages 32259 -- 32262 of the *Journal* of such date (such amended plan and project are referred to herein as the "Plan"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on February 7, 1997 and published at pages 38400 -- 38412 of the *Journal* of such date, the Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, Pursuant to an ordinance (the "T.I.F. Ordinance") adopted by the City Council on February 7, 1997 and published at pages 38412 -- 38425 of the *Journal* of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

WHEREAS, CNA Financial Corporation, a Delaware corporation ("CNA" or "Developer"), through a wholly owned subsidiary, Continental Assurance Company, an Illinois insurance company ("C.A.C." or "Owner") holds title to certain real property located within the redevelopment area commonly known as 333 South Wabash Avenue and legally described on Exhibit B of the attached redevelopment agreement (as defined herein) and will complete rehabilitation of an approximately one million one hundred forty-four thousand (1,144,000) rentable square foot office building (the "Facility") thereon which is now solely occupied by Developer and certain of its affiliates and functions as the primary base of operation (the "Headquarters") for Developer's national and international insurance business; and

WHEREAS, The aforementioned rehabilitation will occur to allow the Facility to accommodate unaffiliated third party tenants in approximately two hundred eighty-three thousand (283,000) square feet of rentable space now available due to a corporate restructuring that left Developer and certain of its Affiliates currently only requiring eight hundred sixty-one thousand (861,000) square feet of rentable space. In completing the rehabilitation, Developer and Owner shall make the following modifications to the Facility: (i) significant adaptation of the Facility's lobby, entrances, security, telecommunications, elevators and utility systems; (ii) reconfiguration of certain interior, finishes and furnishings throughout much of the Facility and creation of standard amenities for a multi-tenant building (e.g. additional conference room space); and (iii) work undertaken to be done by the Developer that is required to conform any space to the needs of the particular unaffiliated third party tenants as same commit to occupy space in the Facility. As used herein, the term "Project" shall mean, collectively, the following: (i), (ii) and (iii) above; and

WHEREAS, The CNA has proposed (i) to cause C.A.C. to undertake the redevelopment of the Property and the Facility and (ii) to cause another wholly owned subsidiary, Continental Casualty Company, an Illinois insurance company ("C.C.C.") which is wholly owned by The Continental Corporation, a New York

corporation ("T.C.C.") which is wholly owned by CNA to undertake certain other covenants associated with the Project, all in accordance with the Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Owner, the Developer and the City; and

WHEREAS, Pursuant to Resolution 05-CDC-45 adopted by the Community Development Commission of the City of Chicago (the "Commission") on May 10, 2005, the Commission authorized the City's Department of Planning and Development ("D.P.D.") to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Owner and Developer for the Project; now, therefore,

*Be It Ordained by the City Council of the City of Chicago:*

SECTION 1. The above recitals are incorporated herein and made a part hereof.

SECTION 2. The Developer, Owner, C.C.C. and T.C.C. (collectively, the "Developer Parties") are hereby designated as the developer(s) for the Project pursuant to Section 5/11-74.4-4 of the Act.

SECTION 3. The Commissioner of D.P.D. (the "Commissioner") or a designee of the Commissioner are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver a redevelopment agreement among the Developer Parties and the City in substantially the form attached hereto as Exhibit A and made a part hereof (the "Redevelopment Agreement"), and such other supporting documents as may be necessary to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement. All capitalized terms, unless defined herein, shall have the same meanings as are set forth in the Redevelopment Agreement.

SECTION 4. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 5. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6. This ordinance shall be in full force and effect immediately upon its passage.

Exhibit "A" referred to in this ordinance reads as follows:



0630617051

Doc#: 0630617051 Fee: \$176.50  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 11/02/2008 11:46 AM Pg: 1 of 77

**CNA REDEVELOPMENT AGREEMENT**

BY AND BETWEEN

THE CITY OF CHICAGO

AND

CNA FINANCIAL CORPORATION

AND

CONTINENTAL ASSURANCE COMPANY

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

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

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

### **CNA REDEVELOPMENT AGREEMENT**

This CNA Redevelopment Agreement (this "**Agreement**") is made as of this 2nd day of **November**, 2006, by and among the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Planning and Development ("**DPD**"), and CNA Financial Corporation, a Delaware corporation ("**CNA**") and Continental Assurance Company, an Illinois stock insurance company that is a wholly owned subsidiary of CNA ("**CAC**").

### **RECITALS**

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

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

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.

**CNA FINANCIAL CORPORATION, a Delaware corporation**

By: [Signature]

Its: Senior Vice President & Deputy General Counsel

By: [Signature]

Its: Senior Vice President & Corporate Controller

Approved by  
Law Dept:

**CONTINENTAL ASSURANCE COMPANY, an Illinois insurance company**

By: [Signature]  
Date: 11/2/00

Attest:  
By: [Signature]

Its: Assistant Vice President & Assistant Secretary

By: [Signature]

Its: Executive Vice President & Chief Administration Officer

**CITY OF CHICAGO**

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

Lori Healey  
Commissioner, Department of Planning and Development



**Joinder of TCC and CCC.** In Witness Whereof each of the respective entities set forth below has caused this Joinder to this Agreement to be signed on behalf of itself, and each hereby joins for the purpose of making those representations, warranties, covenants and promises of performance made by Developer under this Agreement which are reasonably applicable to each said entity. Each of the respective entities set forth below also acknowledges (i) that it is an Affiliate of Developer and (ii) that it is and shall be bound to acknowledge and accede to any directives properly given by Developer as may be required to satisfy any and all aforementioned applicable obligations, representations, warranties, covenants and promises of performance hereunder.

**THE CONTINENTAL CORPORATION, a New York corporation**

Attest:

By: *M. A. Y. Sabharwal*

Its: Assistant Vice President & Assistant Secretary

By: *James J. Boy*

Its: Senior Vice President & Corporate Controller

Approved by  
Law Dept.

By: *JMB*

**CONTINENTAL CASUALTY COMPANY, an Illinois insurance company** Date: 11/10/06

Attest:

By: *M. A. Y. Sabharwal*

Its: Assistant Vice President & Assistant Secretary

By: *Soutwell*

Its: Executive Vice President & Chief Administration Officer

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Diana Daniel, a notary public in and for the said County, in the State aforesaid,  
DO HEREBY CERTIFY that Robert M. Mann & Lawrence J. Boysen, personally known to me to be the  
Senior Vice President & Deputy General Counsel &  
Senior Vice President & Corporate Controller  
of CNA Financial Corporation, a Delaware corporation (the  
"Developer"), 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 ~~xxxx~~ ~~they~~  
sealed, and delivered said instrument, pursuant to the authority given to ~~xxxx~~ ~~them~~  
Directors of the Developer, as ~~xxxx~~ ~~their~~ free and voluntary act and as the free and voluntary act of the  
Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 2nd day of November, 2006.

Diana Daniel  
Notary Public



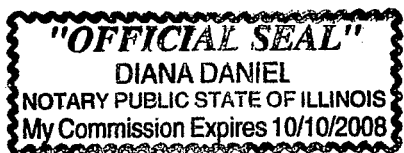
My Commission Expires 10/10/2008

(SEAL)

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Diana Daniel, a notary public in and for the said County, in the State aforesaid,  
DO HEREBY CERTIFY that Thomas Pontarelli, personally known to me to be the  
Executive Vice President & Chief Administrative Officer of Continental Assurance Company, an Illinois insurance company  
(the "Developer" or "CAC"), and personally known to me to be the same person whose name is  
subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that  
he/~~she~~ signed, sealed, and delivered said instrument, pursuant to the authority given to him/~~her~~  
by the Board of Directors of the Developer, as his/~~her~~ free and voluntary act and as the free and  
voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 2nd day of November, 2006.



Diana Daniel  
Notary Public

My Commission Expires 10/10/2008

(SEAL)

RECORDED  
VERSION

**CNA REDEVELOPMENT AGREEMENT**

BY AND BETWEEN

THE CITY OF CHICAGO

AND

CNA FINANCIAL CORPORATION

AND

CONTINENTAL ASSURANCE COMPANY

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

RECORDED  
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TABLE OF CONTENTS

	PAGE
SECTION 1. RECITALS .....	3
SECTION 2. DEFINITIONS .....	3
SECTION 3. THE PROJECT .....	9
3.01 <u>The Project</u> .....	9
3.02 <u>Scope Drawings and Plans and Specifications</u> .....	10
3.03 <u>Project Budget</u> .....	10
3.04 <u>Change Orders</u> .....	10
3.05 <u>DPD Approval</u> .....	11
3.06 <u>Other Approvals</u> .....	11
3.07 <u>Progress Reports and Survey Updates</u> .....	11
3.08 <u>Inspecting Agent or Architect</u> .....	11
3.09 <u>Barricades</u> .....	11
3.10 <u>Signs and Public Relations</u> .....	11
3.11 <u>Utility Connections</u> .....	12
3.12 <u>Permit Fees</u> .....	12
SECTION 4. FINANCING .....	12
4.01 <u>Total Project Cost and Sources of Funds</u> .....	12
4.02 <u>Developer Funds.</u> .....	12
4.03 <u>City Funds</u> .....	12
4.04 <u>Construction Escrow; Requisition Form.</u> .....	13
4.05 <u>Treatment of Prior Expenditures and Subsequent Disbursements</u> .....	14
4.06 <u>Cost Overruns</u> .....	14
4.07 <u>Preconditions of Disbursement</u> .....	15
4.08 <u>Conditional Grant/Right to Recapture City Funds</u> .....	16
SECTION 5. CONDITIONS PRECEDENT .....	16
5.01 <u>Project Budget</u> .....	16
5.02 <u>Scope Drawings and Plans and Specifications</u> .....	16
5.03 <u>Other Governmental Approvals</u> .....	16
5.04 <u>Financing</u> .....	16
5.05 <u>Acquisition and Title</u> .....	16
5.06 <u>Evidence of Clean Title</u> .....	17
5.07 <u>Surveys</u> .....	17
5.08 <u>Insurance</u> .....	17
5.09 <u>Opinion of the Developer's Counsel</u> .....	17
5.10 <u>Evidence of Prior Expenditures</u> .....	18
5.11 <u>Financial Statements</u> .....	18
5.12 <u>Documentation</u> .....	18

5.13 <u>Environmental</u> .....	18
5.14 <u>Corporate Documents; Economic Disclosure Statement</u> .....	18
5.15 <u>Litigation</u> .....	18
SECTION 6. AGREEMENTS WITH CONTRACTORS .....	19
6.01 <u>Bid Requirement for General Contractor and Subcontractors</u> .....	19
6.02 <u>Construction Contract</u> .....	19
6.03 <u>Performance and Payment Bonds</u> .....	19
6.04 <u>Employment Opportunity</u> .....	19
6.05 <u>Other Provisions</u> .....	20
SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION .....	20
7.01 <u>Certificate of Completion of Construction or Rehabilitation</u> .....	20
7.02 <u>Effect of Issuance of Certificate; Continuing Obligations</u> .....	21
7.03 <u>Failure to Complete</u> .....	21
7.04 <u>Notice of Expiration of Term of Agreement</u> .....	22
SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER. ....	22
8.01 <u>General</u> .....	22
8.02 <u>Covenant to Redevelop</u> .....	25
8.03 <u>Redevelopment Plan</u> .....	25
8.04 <u>Use of City Funds</u> .....	25
8.05 <u>Other Bonds</u> .....	25
8.06 <u>Job Creation and Retention; Covenant to Remain in the City</u> .....	25
8.07 <u>Employment Opportunity; Progress Reports</u> .....	26
8.08 <u>Employment Profile</u> .....	27
8.09 <u>Prevailing Wage</u> .....	27
8.10 <u>Arms-Length Transactions</u> .....	27
8.11 <u>Conflict of Interest</u> .....	27
8.12 <u>Disclosure of Interest</u> .....	28
8.13 <u>Financial Statements</u> .....	28
8.14 <u>Insurance</u> .....	28
8.15 <u>Non-Governmental Charges</u> .....	28
8.16 <u>Developer's Liabilities</u> .....	28
8.17 <u>Compliance with Laws</u> .....	29
8.18 <u>Recording and Filing</u> .....	29
8.19 <u>Real Estate Provisions</u> .....	29
8.20 <u>Green Roof Covenant</u> .....	32
8.21 <u>Participation in City Beautification Efforts</u> .....	32
8.22 <u>Public Benefits Program</u> .....	32
8.23 <u>Job Readiness Program</u> .....	32
8.24 <u>Survival of Covenants</u> .....	32
SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY .....	33

9.01 <u>General Covenants</u> .....	33
9.02 <u>Survival of Covenants</u> .....	33
SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS .....	33
10.01 <u>Employment Opportunity</u> .....	33
10.02 <u>City Resident Construction Worker Employment Requirement</u> .....	34
10.03 <u>MBE/WBE Commitment</u> .....	36
SECTION 11. ENVIRONMENTAL MATTERS .....	38
SECTION 12. INSURANCE .....	39
SECTION 13. INDEMNIFICATION .....	42
13.01 <u>General Indemnity</u> .....	42
SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT .....	43
14.01 <u>Books and Records</u> .....	43
14.02 <u>Inspection Rights</u> .....	44
SECTION 15. DEFAULT AND REMEDIES .....	44
15.01 <u>Events of Default</u> .....	44
15.02 <u>Remedies</u> .....	45
15.03 <u>Curative Period</u> .....	45
SECTION 16. MORTGAGING OF THE PROJECT .....	46
SECTION 17. NOTICE .....	47
SECTION 18. MISCELLANEOUS .....	48
18.01 <u>Amendment</u> .....	48
18.02 <u>Entire Agreement</u> .....	48
18.03 <u>Limitation of Liability</u> .....	48
18.04 <u>Further Assurances</u> .....	48
18.05 <u>Waiver</u> .....	48
18.06 <u>Remedies Cumulative</u> .....	49
18.07 <u>Disclaimer</u> .....	49
18.08 <u>Headings</u> .....	49
18.09 <u>Counterparts</u> .....	49
18.10 <u>Severability</u> .....	49
18.11 <u>Conflict</u> .....	49
18.12 <u>Governing Law</u> .....	49
18.13 <u>Form of Documents</u> .....	49
18.14 <u>Approval</u> .....	49
18.15 <u>Assignment</u> .....	50
18.16 <u>Binding Effect</u> .....	50



<b>18.17</b>	<b><u>Force Majeure</u></b>	50
<b>18.18</b>	<b><u>Exhibits</u></b>	50
<b>18.19</b>	<b><u>Business Economic Support Act</u></b>	50
<b>18.20</b>	<b><u>Venue and Consent to Jurisdiction</u></b>	51
<b>18.21</b>	<b><u>Costs and Expenses</u></b>	51
<b>18.22</b>	<b><u>Business Relationships</u></b>	51

## 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	<b>[Intentionally Omitted]</b>
Exhibit G	*Permitted Liens
Exhibit H-1	*Project Budget
Exhibit H-2	*MBE/WBE Budget
Exhibit I	Approved Prior Expenditures
Exhibit J	Opinion of Developer's Counsel
Exhibit K	<b>[Intentionally Omitted]</b>
Exhibit L	Requisition Form
Exhibit M	Escrow Agreement [Intentionally Omitted--Not Applicable]
Exhibit N	*Public Benefits Program
Exhibit O	Form of Subordination Agreement
Exhibit P	Form of Payment Bond

(An asterisk(\*) indicates which exhibits are to be recorded.)

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

## **CNA REDEVELOPMENT AGREEMENT**

This CNA Redevelopment Agreement (this "**Agreement**") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and among the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Planning and Development ("**DPD**"), and CNA Financial Corporation, a Delaware corporation ("**CNA**") and Continental Assurance Company, an Illinois stock insurance company that is a wholly owned subsidiary of CNA ("**CAC**").

### **RECITALS**

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

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

C. **City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the "**City Council**") adopted the following ordinances on June 20, 1984 and amended and supplemented the ordinances on February 7, 1997; May 17, 2000 and July 9, 2003: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Central Loop Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Central Loop Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Central Loop Redevelopment Project Area" (the "**TIF Adoption Ordinance**") (items(1)-(3) collectively referred to herein as the "**TIF Ordinances**"). The redevelopment project area referred to above (the "**Redevelopment Area**") is legally described in **Exhibit A** hereto.

D. **The Project:** The Developer (as defined herein), through CAC, holds title to certain property located within the Redevelopment Area at 333 South Wabash Avenue, Chicago, Illinois 60604 and legally described on **Exhibit B** hereto (the "**Property**"). Developer, CAC and CCC (as defined herein), within the time frames set forth in **Section 3.01** hereof, shall commence and complete rehabilitation of an approximately 1,144,000 rentable square foot office building (the "**Facility**") thereon. The Facility is currently occupied solely by Developer and certain of its Affiliates and functions as the primary base of operation for Developer's national and international insurance business (said primary base of operation for Developer's national and international insurance business being referred to as the "**Headquarters**"); however due to a corporate restructuring the Developer and certain of its Affiliates currently only require 861,000 square feet of rentable space leaving approximately 283,000 square feet of rentable space which may be occupied by other parties. The Developer shall make the following modifications to the Facility so that the Facility can accommodate third-party tenants, as well as the consolidated operations of Developer and its applicable Affiliates: (i) significant adaptation of the Facility's lobby, entrances, security, telecommunications, elevators and utility systems; and (ii) reconfiguration of certain interior, finishes and furnishings throughout much of the Facility and creation of standard amenities for a multi-tenant building (e.g. additional conference room space) (as completed by Developer, the "**Building Conversion**"). The Building Conversion is the work reasonably required to insure that the Facility may be used by multiple unaffiliated tenants. As tenants other than Developer commit to occupy the Facility subsequent to the Building Conversion, Developer or any respective tenant, may engage in any work required to conform any space to the needs of the particular tenant (the "**Tenant Build-Out**"). As used herein, the term "**Project**" shall mean, collectively, the following: (i) the Building Conversion; (ii) the Tenant Build-Out undertaken to be done by Developer (including any Tenant Build Out done by the General Contractor or any other contractor on behalf of Developer); (iii) the installation of signs, which must comply with the State Street Ordinance (as defined herein); (iv) completion of the Street-scape Improvements (as defined herein); and (v) all TIF-Funded Improvements (as defined below in Section 2 and set forth on **Exhibit C**). 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 current City zoning ordinances, this Agreement and the City of Chicago Central Loop Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "**Redevelopment Plan**") attached hereto as **Exhibit D**.

**F. City Financing:** The City agrees to use, in the amounts set forth in **Section 4.03** hereof, (i) Incremental Taxes (as defined below), and/or (ii) a portion of the proceeds of its Tax Increment Allocation Bonds (Central Loop Redevelopment Project), Taxable Series 2000B Bonds (Current Interest Bonds) (the "**Bonds**") issued pursuant to an ordinance adopted by the City Council on May 17, 2000 (the "**Bond Ordinance**"), to pay for or reimburse the Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement. Regardless of the ability to use either source of funds, it is the City's current intent to use Incremental Taxes as the source of payment, or reimbursement, for TIF-Funded Improvements.

In addition, the City may, in its discretion, issue tax increment allocation bonds ("**TIF Bonds**") secured by Incremental Taxes pursuant to a tax increment financing bond ordinance (the "**TIF Bond Ordinance**") at a later date as determined by the City, the proceeds of which (the "**TIF Bond Proceeds**") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes, to make payments of principal and interest on the City Note, or in order to reimburse the City for the costs of TIF-Funded Improvements.

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

## SECTION 1. RECITALS

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

## SECTION 2. DEFINITIONS

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

"**Act**" shall have the meaning set forth in the Recitals hereof.

"**Actual residents of the City**" shall mean persons domiciled within the City.

"**Agreement**" shall have the meaning set forth in the preamble hereof.

**“Affiliate(s)”** shall mean any person(s) or entities directly or indirectly controlled by or under common control with the Developer and any person(s) or entities controlling the Developer with respect to its day to day operations of the Facility.

**“Alternative Security”** shall mean any deposit of cash or highly marketable, liquid securities into a trust account established by Developer or one of its Affiliates at a local bank or trust company selected by Developer, and approved by the City, made in connection with (i) the issuance of the Certificate pursuant to Section 7.01 and (ii) the payment of City Funds pursuant to Section 4.03(b); said deposit (including the initial deposit) shall be in the form of cash or highly marketable liquid securities satisfactory to the City, acting in its sole discretion, and shall be in satisfaction of the letter of credit requirement set forth in Section 4.03(b), all subject to a commercially reasonable trust agreement ( which shall be reasonably acceptable to the City) by and among the City, the local bank or trust company serving as trustee, and Developer or one of its Affiliates. Developer shall only be allowed to make substitutions, purchases and sales of any deposits in the trust account and of any interest thereon so long as DPD approves and Developer is not required to maintain in the trust account more than the amount of City Funds actually expended for TIF-Funded Improvements. Substitutions, purchases and sales of any deposits in the trust account by Developer may be subject to the terms of the aforementioned trust agreement, so long as said trust agreement does not supersede or in any way interfere with, the right of DPD to approve Developer’s purchases, substitutions, or sales within ten (10) business days after receiving written notice from Developer. In the event DPD does not respond within said ten (10) business days, such substitution, purchase or sale of deposits in the trust account shall be deemed approved.

**“Bonds”** shall have the meaning set forth for such term in **Recital F** hereof.

**“Building Conversion”** shall have the meaning set forth in **Recital D** hereof.

**“CAC”** shall have the meaning set forth in **Recital D** hereof.

**“CCC”** shall mean Continental Casualty Company, an Illinois insurance company. CCC is a wholly owned subsidiary of Developer, the entity that employs CNA employees and owns one hundred percent (100%) of the issued and outstanding stock of CAC.

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

**“Certificate”** shall mean the Certificate of Completion of Rehabilitation described in **Section 7.01** hereof.

**“Change Order”** shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in **Section 3.03**, **Section 3.04**, **Section 3.05**, and **Section 3.07**, respectively.

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

**“City Funds”** shall mean the funds described in **Section 4.03(b)** hereof.

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

**“Compliance Period”** shall have the meaning set forth in Section 8.06 hereof.

**“Construction Contract”** shall mean, as applicable: (i) that certain contract, substantially in the form attached hereto as **Exhibit E**, to be entered into between CAC and Leopardo Companies, Inc. an Illinois corporation providing for construction of the Building Conversion; (ii) those certain contracts, to be entered into between Developer or one of its affiliates and the applicable General Contractor for Street-scape Improvements and construction of other portions of the Project, all of which contracts are subject to approval by the City; and (iii) those certain construction contracts, to be entered into between Developer or one of its Affiliates for construction of Tenant Build Out undertaken to be completed by Developer, copies of which shall be provided to DPD.

**“Corporation Counsel”** shall mean the City's Office of Corporation Counsel.

**“Developer”** For purposes of this Agreement, the term "Developer" shall be deemed (i) to refer to CNA and CAC in connection with the undertaking of the Project (or to any other Affiliate(s) succeeding to CAC's rights and responsibilities with respect to the Project); (ii) to refer to CNA and CCC (or to any other Affiliate(s) succeeding to CCC's rights and responsibilities with respect to the Jobs Covenant) in connection with the undertaking of the Jobs Covenant (as defined herein); and (iii) to refer to CNA and TCC (as defined herein), or any other subsidiary of CNA, required to make those representations, warranties, covenants and promises of performance made under this Agreement which are reasonably applicable to each said entity.

**“Employer(s)”** shall have the meaning set forth in **Section 10.01** 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 (other than funds derived from Lender Financing) irrevocably available for the Project, in the amount set forth in **Section 4.01** hereof, which amount may be increased pursuant to **Section 4.06** (Cost Overruns) or **Section 4.03(b)**.

**“Escrow”** shall mean the construction escrow established pursuant to the Escrow Agreement.

**“Escrow Agreement”** shall mean the Escrow Agreement, **if any**, establishing a construction escrow, to be entered into as of the date hereof by the City (for the sole purpose of receiving copies of any and all disbursement requests made thereunder), the Title Company (or an affiliate of the Title Company), the Developer and the Developer's lender(s), substantially in the form of **Exhibit M** attached hereto.

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

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

**“Financial Statements”** shall mean Developer's Form 10-K Annual Reports as most recently filed with the United States Securities and Exchange Commission, which annual reports shall be based on audited financial statements of the Developer prepared by a certified public accountant in accordance with generally accepted accounting principles.

**“General Contractor”** shall mean (i) with respect to the Building Conversion, Leopardo Companies, Inc., an Illinois corporation; (ii) with respect to the Street-scape Improvements and other portions of the Project, any one or more general contractors, if any, retained by Developer or any of its affiliates and approved by DPD; and (iii) with respect to Tenant Build Out undertaken to be done by Developer, any one or more general contractors, if any, retained by Developer or any of its affiliates and approved by DPD.

**“Green Roof”** shall have the meaning set forth in Section 8.20 hereof.

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

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

**“Incremental Taxes”** shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the



Treasurer of the City of Chicago for deposit by the Treasurer into the Central Loop Redevelopment Area Special Tax Allocation Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

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

**"Lender Financing"** shall mean funds borrowed by the Developer from lenders and irrevocably available to pay for Costs of the Project, in the amount set forth in **Section 4.01** hereof.

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

**"MBE/WBE Budget"** shall mean the budget attached hereto as **Exhibit H-2**, as described in **Section 10.03**.

**"Minimum Assessed Value"** shall have the meaning set forth for such term in **Section 8.19(c)** hereof.

**"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.

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

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

**"Permitted Transferees"** shall mean any Affiliate that has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder, including, without limitation, the covenants running with the land described in **Section 7.02** hereof.

**"Plans and Specifications"** shall mean initial construction documents containing a site plan and working drawings and specifications for the Project (or portions thereof), as submitted to the City as the basis for obtaining building permits for the Project (or portions thereof).

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

**"Project"** shall have the meaning set forth in the Recitals hereof.

**“Project Budget”** shall mean the budget attached hereto as **Exhibit H-1**, showing the total cost of the Project by line item, Tenant Build-Out and related lease commissions furnished by the Developer to DPD, in accordance with **Section 3.03** hereof.

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

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

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

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

**“Requisition Form”** shall mean the document, in the form attached hereto as **Exhibit L**, to be delivered by the Developer to DPD pursuant to **Section 4.04** of this Agreement.

**“Scope Drawings”** shall mean preliminary construction documents containing a site plan and preliminary drawings and specifications for the Project (or portions thereof).

**“State Street Ordinance”** shall mean Section 17-12-1103 of the Municipal Code of the City of Chicago in effect as of the date hereof.

**“Street-scape Improvements”** shall mean the installation of surface mounted planters on the portion of the sidewalk that runs West along the North side of Van Buren Street from the furthest Easterly point of the driveway for the Building's parking garage to the point on Wabash Avenue where the City's street-scape ends, all of which shall be completed in a manner stylistically complimentary to the planters installed by the City as part of the Wabash Avenue streetscaping (excluding light fixtures), as determined by the City acting in its sole capacity.

**“Survey”** shall mean that certain plat of survey of the Property dated July 18, 2005 and revised August 19, 2005, February 14, 2006, June 12, 2006 and August 2, 2006 prepared by National Survey Service, Inc. (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; that certain survey shall be updated if any lender provides Lender Financing to Developer or its relevant affiliate or any other change in the physical condition or the Facility occurs which shall detrimentally affect the rights of the City under this Agreement.

**“TCC”** shall mean The Continental Corporation, a New York corporation, a wholly owned subsidiary of the Developer and the owner of one hundred percent (100%) of the issued and outstanding stock of CCC.

**“Tenant Build-Out”** shall have the meaning set forth in Recital D hereof.

**“Term of the Agreement”** shall mean the period of time commencing on the Closing Date and concluding at the end of the Compliance Period.

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

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

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

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

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

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

**“Title Company”** shall mean First American Title Insurance Company.

**“Title Policy”** shall mean an updated commitment for title insurance in the most recently revised ALTA or equivalent form, showing the Developer or one of its Affiliates as the insured as of the issuance of the Certificate and showing that there are no mechanics’ liens on the Property since the start of construction on the Project, together with evidence of the recording of this Agreement as an encumbrance against the Property, and if there is any Lender Financing, a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to said Lender Financing, if any and a final title policy based on the aforementioned and described commitment for title insurance..

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

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

### SECTION 3. THE PROJECT

**3.01 The Project.** The Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.17** hereof: (i) commence construction of the Building

Conversion no later than December 31, 2005; (ii) complete construction of the Building Conversion along with installation of signs (which must comply with the State Street Ordinance) and completion of the Street-scape Improvements and conduct business operations therein no later than December 31, 2007; and (iii) complete the Green Roof by December 31, 2008.

**3.02 Scope Drawings and Plans and Specifications.** The Developer shall deliver the Scope Drawings and Plans and Specifications to DPD and DPD shall approve same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DPD as a Change Order pursuant to **Section 3.04** hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan 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.

**3.03 Project Budget.** The Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than Sixty-Four Million Eight Hundred Ninety-Seven Thousand Nine Hundred Forty Dollars (\$64,897,940.00). The Developer hereby certifies to the City that: (a) the City Funds, together with the Equity described in **Section 4.01** hereof, shall be sufficient to complete the Project; (b) Developer has the Equity in an amount sufficient to pay for all Project costs; and (c) the 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 Project Budget for approval pursuant to **Section 3.04** hereof.

**3.04 Change Orders.** Except as provided below in this Section 3.04 and other Sections of the Agreement that reference this Section 3.04, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Project must be submitted by the Developer to DPD concurrently with the progress reports described in **Section 3.07** hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to DPD for DPD's prior written approval: (a) a reduction in the gross or net square footage of the Facility by five percent (5%) or more (either individually or cumulatively); (b) a change in the use of the Property to a use other than an office building; (c) a delay in the completion of the Building Conversion by six (6) months or more; or (d) Change Orders resulting in an aggregate modification to the Project Budget for the Building Conversion of five percent (5%) or more. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval (to the extent said City approval is required pursuant to the terms of this Agreement); the Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. Notwithstanding anything to the contrary in this **Section 3.04**, Change Orders other than those set forth above do not require DPD's prior written approval as set forth in this **Section 3.04**, but DPD shall be notified in writing of all such Change Orders 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 Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DPD pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

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

**3.07 Progress Reports and Survey Updates.** The Developer shall provide DPD with written quarterly progress reports detailing the status of the 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**), duplicates of applicable documentation required to support and verify disbursement and receipt of all Project Funds (such documentation to include, without limitation, invoices, canceled checks, partial and final lien waivers), and monthly reports regarding MBE/WBE utilization, Prevailing Wage and City Residency (each based on expenditures to date). The Developer has previously provided two (2) copies of the Survey to DPD and shall upon the request of any lender providing Lender Financing, provide any requested copies of the Survey updated to reflect improvements made to the Property.

**3.08 Inspecting Agent or Architect.** If requested by DPD or the City Department of Construction and Permits ("DCAP"), an independent agent or architect (other than Developer's architect) approved by DPD shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project.

**3.09 Barricades.** Prior to commencing any construction requiring barricades, 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.

**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 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 Project Cost and Sources of Funds.** The cost of the Project, along with any Tenant Build-Out not undertaken by or through Developer and related lease commissions, is estimated to be \$64,897,940, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <u>Sections [4.03(b)] and 4.06</u> )	\$64,897,940
Lender Financing	\$ ZERO
Estimated City Funds for reimbursement (subject to <u>Sections 4.02 and 4.03</u> )	<u>[\$13,680,000]</u>
<b>ESTIMATED TOTAL</b>	<b>\$64,897,940</b>

**4.02 Developer Funds.** Equity shall be used to pay all costs associated with the Project, including but not limited to Redevelopment Project costs and costs of TIF-Funded Improvements. The amount of Equity set forth in Section 4.01 above is the approximate amount required to complete the Project and any Tenant Build-Out not undertaken by or through Developer along with any related lease commissions. All costs associated with the Building Conversion must be actually spent by Developer prior to the date the Central Loop Tax Increment Allocation Financing District expires, which is December 31, 2008.

### **4.03 City Funds.**

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse the Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to Sections 4.03(b) and 4.05(d)), 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. City Funds shall not be paid to the Developer hereunder prior to the later of the issuance of a Certificate or February 1, 2008.

(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 provide City funds from the sources and in the amounts described directly below (the "City Funds") to pay for or reimburse the Developer for the costs of the TIF-Funded Improvements:

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Incremental Taxes and/or TIF Bond Proceeds	\$13,680,000

provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed Thirteen Million Six Hundred Eighty Thousand Dollars (\$13,680,000) of the actual total Project costs; and provided further, that the up to \$13,680,000 to be derived from Incremental Taxes and/or TIF Bond Proceeds, if any shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long as:

(i) The amount of TIF Bond Proceeds or Incremental Taxes deposited into the Central Loop Redevelopment Project Area Tax Increment Allocation Fund shall be sufficient to pay for such costs; and

(ii) The Developer shall deposit with the City an irrevocable letter of credit which is valid and in a form acceptable to the City naming the City as the sole beneficiary or provide the Alternative Security either of which shall be equal to the full amount of the City Funds actually expended for TIF-Funded Improvements and shall be referred to herein as the "LOC". Commencing no later than the date (i) the Developer shall request payment of the City Funds and (ii) upon issuance of the Certificate, the Developer shall maintain a valid LOC, in the entire principal amount set-forth above, on deposit with the City during the entire Compliance Period.

The Developer acknowledges and agrees that the City's obligation to pay for TIF-Funded Improvements up to a maximum of \$13,680,000 is contingent upon the fulfillment of the conditions set forth in parts (i) and (ii) above. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by the Developer pursuant to Section 4.01 hereof shall increase proportionately.

(c) Retainage. [INTENTIONALLY LEFT BLANK].

#### 4.04 Construction Escrow; Requisition Form.

(a) If the Developer enters into any Escrow Agreement regarding construction of the Project, Developer hereby agrees to allow the City to enter into any such Escrow Agreement for the purpose of insuring that the City shall receive copies of all requests for disbursement requested under any

said Escrow Agreement. If Developer enters into any Escrow Agreement regarding the Project, all disbursements of Project funds (except for any Prior Expenditures and City Funds) 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. The City must receive copies of any draw requests and related documents submitted to the Title Company for disbursements under the Escrow Agreement.

(b) The Developer shall provide DPD with a Requisition Form, along with the documentation described therein substantially in the form of the Requisition Form attached hereto as **Exhibit L**. Requisition for reimbursement of TIF-Funded Improvements shall be made once during the term of this Agreement by the later of the issuance of the Certificate or February 1, 2008 (or as otherwise permitted by DPD). Upon submission of the Requisition Form, Developer shall also submit a copy of the Title Policy as evidence that there are no mechanics' liens on the Property; if the City is not reasonably satisfied by said Requisition Form, then the City may request other evidence as is reasonably necessary to show there are no mechanics' liens on the Property.

#### **4.05 Treatment of Prior Expenditures and Subsequent Disbursements.**

(a) **Prior Expenditures.** Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "**Prior Expenditures**"). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. **Exhibit I** hereto sets forth the prior expenditures approved by DPD as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements may, in the sole discretion of the City, be either reimbursed to the Developer, or reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to **Section 4.01** hereof.

(b) **Purchase of Property.** Intentionally Left Blank.

(c) **City Fee.** The City shall not allocate any Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Project from City Funds.

(d) **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 five percent (5%) of the Project Budget in the aggregate, may be made without the prior written consent of DPD.

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



**4.07 Preconditions of Disbursement.** Prior to the disbursement of City Funds hereunder by the City, the Developer shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole discretion; said documentation shall include, without limitation, (i) invoices, (ii) canceled checks, (iii) lien waivers'; (iv) owner's sworn statement, (v) general contractor's sworn statement, (vi) MBE/WBE subcontractor contract amounts, and (vii) copies of any relevant escrow disbursement. Delivery by the Developer to DPD of any request for 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 Building Conversion, and/or their payees;
- (b) all amounts shown as previous or other payments on the disbursement request have been paid to the parties entitled to such payment;
- (c) Developer has approved all work and materials for the Building Conversion portion of the Project, and such work and materials conform to the Plans and Specifications;
- (d) the representations and warranties contained in this Redevelopment Agreement are true and correct and 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; and
- (f) to the best of the Developer's knowledge and belief after due and reasonable inquiry, 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.

The City shall have the right, in its discretion, to require the Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Developer. In addition, 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 the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances, this Agreement, the Escrow Agreement and the additional requirements set forth below:

- Receipt of a Certificate of Occupancy or other evidence acceptable to the City, acting in its sole discretion, that Developer has complied with building permit requirements for the Building Conversion;

- Evidence of the Project meeting or exceeding MBE/WBE, Prevailing Wage, and City Residency requirements as set forth in the appropriate provisions of this Agreement;
- Evidence that the TIF-eligible costs incurred, as determined by the City acting in its sole discretion, is an amount equal to or greater than the amount of City Funds requested; and
- Purchase and deposit of the LOC as set forth in Section 4.03(b) of this Agreement.

**4.08 Conditional Grant/Right to Recapture City Funds.** The City shall have the right to seek whole or partial reimbursement of City Funds previously paid or disbursed to Developer if Developer fails to comply with the Jobs Covenant or its covenants to maintain and occupy its Headquarters in Chicago.

## SECTION 5. CONDITIONS PRECEDENT

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

**5.01 Project Budget.** The Developer has submitted to DPD, and DPD has approved, a Project Budget in accordance with the provisions of Section 3.03 hereof.

**5.02 Scope Drawings and Plans and Specifications.** The Developer shall submit the Scope Drawings and Plans and Specifications to DPD for approval when such Scope Drawings become available. DPD shall not unreasonably withhold its approval.

**5.03 Other Governmental Approvals.** The Developer has secured all other necessary approvals and permits required by any applicable state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DPD.

**5.04 Financing.** The Developer has furnished proof reasonably acceptable to the City that the Developer has Equity in the amount set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement. If, prior to the Closing Date, Developer determines that a portion of such funds shall consist of Lender Financing or funds from tenants, the Developer shall furnish proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with the remaining Equity) to complete the Project. Any liens against the Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

**5.05 Acquisition and Title.** On the Closing Date, the Developer has furnished the City with a copy of the Title Policy for the Property, certified and/or issued (as applicable) by the Title Company, showing the Developer or CAC as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on Exhibit G hereto and evidences the recording of this Agreement pursuant to the provisions of Section 8.18 hereof.

In the event the condition of the Property is adversely affected by matters normally covered by the following endorsements to a title policy: to an owner's comprehensive endorsement, zoning (3.1 with parking), contiguity, location, access and survey so as to materially interfere with the ability of Developer or its Affiliates to operate at the Facility, Developer shall immediately commence to repair or otherwise address such adverse condition and complete the same within sixty (60) days. Developer has provided to DPD, on or prior to the Closing Date, documentation related to certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DPD's satisfaction, by the Title Policy.

**5.06 Evidence of Clean Title.** The Developer, at its own expense, has provided the City with searches under the Developer's name (and the following names of Developer Affiliates: CNA Financial Corporation, The Continental Corporation, Continental Casualty Company, and Continental Assurance Company) as follows:

Secretary of State (IL)	UCC search
Secretary of State (IL)	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 (N.D.)	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

showing no liens involving the City or other material liens (in the event said liens arise solely from litigation such litigation shall only involve that which Developer publicly discloses) against the Developer, the Developer Affiliates named above (TCC, CCC or CAC), the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens. The Developer, at its own expense, shall provide updated searches within thirty (30) days after the Closing Date which shall continue to show no liens involving the City or other material liens as set forth above.

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

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

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

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

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

**5.12 Documentation.** The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters, and all documents relating to leases, if any, of (or associated with) any portion of the Property including, without limitation, ground leases, tenant leases, operating leases, lease termination agreements, operating leases and/or synthetic leases. The City has the right to examine the economic terms of the leases and any other material documents (e.g. management agreements) related to the Project.

**5.13 Environmental.** The Developer has provided DPD with copies of the following environmental audits: (i) that certain report captioned "Environmental Report: CNA 333 South Wabash Chicago, Illinois Asbestos Operations and Maintenance (O&M) Program Manual (July 2003)"; and (ii) that certain report captioned "Environmental Report: Phase I Environmental Site Assessment CNA Plaza, 55 East Jackson Boulevard and 333 South Wabash Avenue, Chicago, Illinois 60604 (November 28, 2000)". The Developer has provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

**5.14 Corporate Documents; Economic Disclosure Statement.** The Developer has provided a copy of its Articles or Certificate of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and all other states in which the Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; by-laws of the corporation; and such other corporate documentation as the City has requested. The Developer and its relevant Affiliates have provided to the City an Economic Disclosure Statement, in the City's then current form, dated as of the Closing Date, and such other documentation as required to disclose all individuals, corporations (or other entities) who are part of Developer's legal ownership structure, this Agreement and any leases associated with the Project.

**5.15 Litigation.** The Developer has provided to Corporation Counsel and DPD in writing, a description of (i) all pending or threatened litigation or administrative proceedings involving the interests of Developer, TCC, CCC or CAC in the Project or the Facility and (ii) all other material litigation required to be publicly disclosed or involving the City that is pending or has been threatened or material administrative proceedings involving Developer or its Affiliates including, without limitation, litigation which may affect the ability of Developer or its Affiliates to perform their duties and obligations required pursuant to this Agreement. Each such description shall specify, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

## SECTION 6. AGREEMENTS WITH CONTRACTORS

**6.01 Bid Requirement for General Contractor and Subcontractors.** (a) Developer hereby informs the City that Developer intends to use Leopardo Companies, Inc. an Illinois corporation as the General Contractor for the Building Conversion. Prior to the General Contractor entering into any agreement with any subcontractor for construction of the Building Conversion, the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified subcontractors eligible to do business with and in the City of Chicago and inform DPD when all bids have been received. The Developer shall submit copies of the Construction Contract to DPD in accordance with **Section 6.02** below. If DPD shall so request in writing, 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 Building Conversion until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

(b) If the bid of the General Contractor is increased, then the Developer shall add sufficient funds to cover the increased cost.

**6.02 Construction Contract.** Prior to the execution of this Agreement, the Developer shall deliver to DPD a copy of the proposed Construction Contract for the Building Conversion with the General Contractor for DPD's prior written approval, which shall be granted or denied within five (5) business days after delivery thereof. Within five (5) business days after execution of the final version of any Construction Contract (including any Construction Contract for portions of the Project other than the Building Conversion) 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 Construction Contract together with any modifications, amendments or supplements thereto. In the event DPD does not respond within five (5) business days after delivery of any Construction Contract, the Construction Contract shall be deemed approved. Prior to the execution of this Agreement, the Developer must also submit evidence, acceptable to DPD, that the General Contractor has met at least once with (and provided bid documents to) applicable MBE/WBE contractor associations.

**6.03 Performance and Payment Bonds.** Prior to the commencement of any portion of the Project which includes work on the public way, the Developer shall require that the General Contractor undertaking such work be bonded for its payment by sureties having an AA rating or better using a bond in the form attached as **Exhibit P** hereto. The City shall be named as obligee or co-obligee on any such bonds.

**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. Notwithstanding the foregoing, the Developer shall contractually obligate and cause the General Contractor, and such subcontractors as are necessary and appropriate, to achieve compliance with the provisions of Sections 10.02 and 10.03 hereof to agree to the provisions of Sections 10.02 and 10.03 hereof.

**6.05 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 10.03** (MBE/WBE Requirements, as applicable), **Section 12** (Insurance) and **Section 14.01** (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements after the date of this Agreement shall be provided to DPD within five (5) business days of the execution thereof. Prior to the Closing Date, photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements prior to the date of this Agreement shall be provided to DPD

## SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

**7.01 Certificate of Completion of Construction or Rehabilitation.** (a) Upon (i) completion of the Building Conversion in accordance with the terms of this Agreement (including without limitation the additional conditions to issuance of the Certificate set forth below in this **Section 7.01**), (ii) the installation of signs (which must comply with the State Street Ordinance), (iii) completion of the Street-scape Improvements (iv) completion of any other TIF-Funded Improvements, (v) final disbursement from any Escrow which Developer may enter into for the disbursement of Equity or any Lender Financing and (vi) Developer's written request, DPD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Building Conversion and all related signage, landscaping, street-scape and TIF-Funded Improvements in accordance with the terms of this Agreement, provided that the following requirements have been met:

- (i) the Developer has notified DPD in writing, and DPD has verified, that the Building Conversion has been completed; and
- (ii) the Developer has received a Certificate of Occupancy or other evidence acceptable to DPD that the Developer has complied with the building permit requirements for the Building Conversion; and
- (iii) the City's Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in **Section 10 (including, without limitation, Sections 10.02 and 10.03), Section 8.06 and 8.09** (M/WBE, City Residency, Job Creation and Retention, Prevailing Wage); and
- (iv) the City has received documentation evidencing the expenditure of TIF-eligible costs in an amount, as determined by the Commissioner acting in her sole discretion, equal to or greater than the amount of City Funds requested; and
- (v) the Developer has purchased and deposited the LOC as set forth in **Section 4.03(b)** of this Agreement; and,

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

Nothing contained in this Agreement shall obligate the Developer to directly or indirectly undertake any Tenant Build-Out. A reduction in the costs of any Tenant Build-Out shall not reduce the amount of the City Funds, and the undertaking or completion of any Tenant Build-Out shall not be required for, or be a condition precedent to, either issuance of the Certificate or payment to the Developer of the City Funds.

**7.02 Effect of Issuance of Certificate; Continuing Obligations.** The Certificate relates only to the completion of the Project, and upon its issuance, the City will certify that the terms of this Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of the 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 Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at **Sections 8.02, 8.06, 8.14 (as it relates to the improvements on the Property), 8.19 and 8.20** as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of the Certificate; provided, that upon the issuance of the Certificate, the covenants set forth in **Section 8.02** shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of the Certificate shall be binding only upon the Developer and its relevant Affiliates or a permitted assignee of the Developer and its relevant Affiliates 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. In addition to all remedies available at law or in any court of equity, the City shall have the right to enforce the obligations set forth in this Section 7.02 by invoking any and all remedies available in this Agreement.

**7.03 Failure to Complete.** If the Developer fails to complete the Building Conversion and all related landscaping, street-scape and other TIF-Funded Improvements in accordance with the terms of this Agreement and after the exhaustion of any applicable notice and cure periods hereunder, the City has, but shall not be limited to, any of the following rights and remedies:

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

(b) the right (but not the obligation) to complete those landscaping, street-scape and related TIF-Funded Improvements that are public improvements and to pay for the costs of said aforementioned TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the those TIF-Funded Improvements set forth in this Section 7.03(b) 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 from the Developer of any City Funds Developer has previously received as reimbursement for TIF-Funded Improvements.

**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, on behalf if itself and its Affiliates named in this Agreement or that have direct control over the Facility, hereby 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) (i) the Developer is a Delaware corporation duly organized, validly existing, qualified to do business in its state of incorporation and in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required, (ii) TCC is a New York corporation duly organized, validly existing, qualified to do business in its state of incorporation, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required, (iii) CCC is an Illinois insurance company duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required, and (iv) CAC is an Illinois insurance company duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

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

(c) the execution, delivery and performance by the Developer, TCC, CCC and CAC of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate their respective corporate governing documents including, without limitation, Developer's Articles and/or Certificate of Incorporation or by-laws as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound;



(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Developer, either itself or through one of its Affiliates, shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget, Non-Governmental Charges that the Developer is contesting in good faith pursuant to **Section 8.15** hereof and Governmental Charges that Developer is contesting in good faith pursuant to **Section 8.19(a)(ii)**);

(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 against, threatened against or otherwise affecting the Developer which would impair its ability to perform under this Agreement;

(g) the Developer has and shall maintain throughout the Term of the Agreement all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) as and when necessary to conduct its business and to construct and complete the Project and operate the Facility;

(h) the Developer is not in default beyond any applicable grace period or notice and cure period 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 or any of its Affiliates or the interest of Developer or any of its Affiliates in the Property is bound that could materially adversely affect the Building Conversion;

(i) to the best of the Developer's knowledge and belief, after due and reasonable inquiry, (1) the Financial Statements are, and when hereafter required to be submitted hereunder will be, complete, correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of the Developer, and (2) there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the Developer since the date of the Developer's most recent Financial Statements;

(j) prior to the issuance of the Certificate, the Developer shall not do any of the following without the prior written consent of DPD (which approval shall not be unreasonably withheld): (1) be a party to any merger, liquidation or consolidation concerning TCC, CAC or CCC with any parties other than a Permitted Transferee; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or the assets of TCC, CCC or CAC except to a Permitted Transferee; (3) directly or indirectly transfer its interest in the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) to anyone other than a Permitted Transferee; or (4) enter into any transaction that would cause a material and detrimental change to the Developer's ability to perform its obligations hereunder; **provided that** after issuance of the Certificate and until ten (10) years from the date of issuance of the Certificate, Developer (or any previous assignee or transferee allowed pursuant to the terms of this Agreement) may not sell or transfer the Property, either directly or indirectly, to any entity with which it is not Affiliated unless

(i) Developer provides written notice of such sell or transfer to the City and the City provides written approval thereof; (ii) the transferee has reasonable experience and regional or national experience in the insurance business (as reasonably determined by the City) to assume Developer's obligations hereunder including, without limitation, the Jobs Covenant and the covenant to continue to occupy the Facility as a Headquarters for transferee's insurance business. The foregoing shall not limit, condition or prohibit the right of Developer to enter into any synthetic lease or other similar financing arrangement (except that such synthetic lease or similar financing arrangement shall not be entered into prior to the issuance of the Certificate) pursuant to which the transferee is not in the insurance business, but Developer (i) acknowledges that all executory terms and conditions of this Agreement and all representations and covenants contained herein continue to remain in full force and effect throughout the Term of the Agreement, and (ii) Developer continues to be obligated to fulfill those covenants which run with the land (Sections 8.02, 8.06, 8.14 (as it relates to improvements on the Property), 8.19 and 8.20) as described and set forth in Section 7.02 hereof.

(k) 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 or as otherwise permitted under Section 8.15 hereof, will not allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget; **provided further** that after issuance of the Certificate, City consent shall be required for any such liens (or transfers as referenced in Section 8.01(j) above) if (1) the permitted mortgagee or other transferee executes a subordination agreement which subordinates any relevant mortgage lien or other interest to the covenants that run with the land or (2) the City is to have an obligation to pay any Incremental Taxes to any transferee other than Developer or any Affiliate thereof;

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

(m) neither the Developer nor any affiliate of the Developer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For purposes of this subparagraph (m) only, the term "affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

**8.02 Covenant to Redevelop.** Upon DPD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in **Sections 3.02** and **3.03** hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Bond Ordinance, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. The covenants set forth in this Section shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate with respect thereto.

**8.03 Redevelopment Plan.** The Developer represents that the 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 Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements (the "Other Bonds"); 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 Other 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. Developer will not have any liability with respect to any disclosures made in connection with any such issuance that are actionable under applicable securities laws unless such disclosures are based on factual information provided by Developer that is determined to be false or misleading.

**8.06 Job Creation and Retention; Covenant to Remain in the City.** The Developer hereby covenants and agrees to maintain its Headquarters at the Facility (which covenant is referred to herein as the "**Operating Covenant**") through a period equal to ten (10) consecutive years from the date the Certificate is issued, as such period may be extended by one year as described below in this **Section 8.06** (the "**Compliance Period**"). In addition, Developer, directly or through one or more Affiliates, shall adhere to the following job creation and retention standards (collectively the "**Jobs Covenant**"): (a) starting from May 18, 2005, not less than two hundred (200) full-time equivalent, permanent jobs shall be created and/or relocated from outside the City at the Facility by March 31, 2006; (b) not less than three thousand (3,000) full-time equivalent, permanent jobs shall be maintained and/or created at the Facility until December 31, 2006 (which 3,000 jobs may include the 200 jobs described in the preceding clause (a)); and (c) not less than two thousand seven hundred (2,700) full-time equivalent, permanent jobs shall be maintained and/or created at the Facility during

the Compliance Period (which 2,700 jobs may include the 200 jobs described in the preceding clause (a)). Developer shall be in default of the requirements of clause (b) of the preceding sentence if the daily average of full-time Developer employees at the Facility falls below three thousand (3,000) during any monthly period up to and including December 31, 2006. Developer shall be in default of the requirements of clause (c) above of this **Section 8.06** if the daily average number of full-time equivalent employees at the Facility during any period for which Developer must submit a report during the Compliance Period on the twenty seven hundred (2,700); however, in the event of such default in adhering to the requirements of clause (c) above, Developer, upon written notice to DPD, may elect to extend the Compliance Period by one year to the eleventh (11<sup>th</sup>) anniversary of the date of the issuance of the Certificate.

The year during which the Compliance Period is extended, as described above, shall be the only cure period allowed for a default by Developer of clause (c) above of the Jobs Covenant; no other notice or cure periods shall apply thereto and said default must be cured by the end of the year during which the Compliance Period is extended. Any year during which Developer shall be found to be in default of clause (c) shall not count toward the required the ten (10) years of compliance for the provisions of clause (c) and shall be remedied solely by implemented by extending the Compliance Period for one year to allow for a single one year opportunity to cure. In the event of a default for any of the covenants in this Section 8.06, the City shall have the right to recapture the full amount of all City Funds previously paid/disbursed to the Developer for the Project by drawing down on the LOC (including the Alternative Security, if applicable) if such default(s) is/are not cured during the applicable cure period.

Developer will be required to submit certified employment reports, reasonably satisfactory in form and content to the City, directly to DPD by February 1<sup>st</sup> following each full or (initial or final) partial calendar year during the Compliance Period. Each year following the (initial) partial, or prior to the (final) partial calendar year, of the Compliance Period shall be defined as commencing on January 1 and ending on December 31. After examining certified employment reports submitted pursuant to this Section 8.06 for any year (including partial years) of the Compliance Period, if DPD determines that Developer is within five per cent (5%) of the applicable job creation or maintenance requirement, the Commissioner of DPD shall have the sole and absolute discretion, regarding the default for that year only, to forebear the City's recapture remedy and not to recapture City Funds as allowed hereunder; nothing in the exercise of said discretion by the Commissioner regarding any said default year shall nullify the effect of Section 18.05 of this Agreement.

The covenants set forth in this Section shall run with the land and be binding upon any transferee.

**8.07 Employment Opportunity; Progress Reports.** 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. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of **Sections 8.09, 10.02 and 10.03** of this Agreement. Such reports shall be delivered to the City quarterly. In addition, any such quarterly reports shall include any Change Orders which require City approval pursuant to the terms of this Agreement. If any such quarterly reports indicate a shortfall in

compliance, the Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which the Developer shall correct any shortfall. The City shall attempt to review any such plans included in any quarterly report and approve or reject said plan(s) in writing. Regardless of the timing of the City's response, the Developer shall proceed at its own sole risk if it proceeds without any applicable City approval.

**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 their respective employment profile relating to the Project 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 laborers, workers and mechanics engaged to work on the Project. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Prior to Closing, the Developer shall provide the City with copies of all contracts entered or proposed to be entered into as of Closing and the City shall review same for compliance with this **Section 8.09**; also, after Closing, 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**. In each case, the City will attempt to expeditiously review said contracts and provide written approval or rejection. Regardless of the timing of the City's response, the Developer shall be at risk if it proceeds with said contracts without the City's written approval.

**8.10 Arms-Length Transactions.** Unless DPD has given its prior written consent with respect thereto, no Affiliate of Developer, other than TCC, CCC and CAC, 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. Notwithstanding anything herein to the contrary, no entity may receive City Funds except as allowed by the Act and relevant City ordinances.

**8.11 Conflict of Interest.** Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents that, to the best of its knowledge, without any particular inquiry, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or 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 or the Property.

**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 Project.

**8.13 Financial Statements.** The Developer shall obtain and provide to DPD Financial Statements for the Developer's fiscal year ending December 31, 2005 and each fiscal year thereafter for the Term of the Agreement.

**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 Project, the Property or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or Project; provided however, that if such Non-Governmental Charge may be paid in installments, 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 has the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend 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 (i) to perform its obligations hereunder or (ii) to repay any material liabilities or perform any material obligations of the Developer to (A) any other private person or entity in connection with the Project or (B) any other government entity. The Developer shall immediately notify DPD of any and all events or actions which may materially and adversely affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other related documents and agreements.

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

**8.18 Recording and Filing.** The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the date hereof in the conveyance and real property records of the county in which the Project is located. In the event Developer obtains any Lender Financing, this Agreement shall be recorded prior to any mortgage made in connection with Lender Financing. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

**8.19 Real Estate Provisions.**

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, a lien upon the Developer or all or any portion of the Property or the Project. "**Governmental Charge**" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, the Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. The Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. The Developer's right to challenge real estate taxes applicable to the Property is limited as provided for in **Section 8.19(c)** below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made if so required as a condition of so challenging said real estate taxes. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to DPD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DPD's sole option:

(A) the Developer shall demonstrate to DPD's satisfaction that legal proceedings instituted by the Developer contesting or objecting to a

Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

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

(b) Developer's Failure To Pay Or Discharge Lien. If the Developer fails to pay any Governmental Charge or to obtain discharge of the same (and is not contesting or objecting thereto in accordance with the provisions of Section 8.19(a)(ii)), the Developer shall advise DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DPD by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge.

(c) Real Estate Taxes.

(i) Acknowledgment of Real Estate Taxes. The Developer agrees that for the purpose of this Agreement, the total rentable square footage of the Facility is deemed to be 1,144,000, the total overall projected minimum assessed value of the Property is deemed to be thirty million dollars (\$30,000,000), and the pro rata share of the projected minimum assessed value of the Property is twenty-six and 22/100ths dollars (\$26.22) per rentable square foot of the Facility. As used herein, the term "**Minimum Assessed Value**" shall mean the lower of: (A) thirty million dollars (\$30,000,000), or (B) the rentable square footage of the Facility that is occupied by individuals or entities that have not been granted applicable real estate tax exemptions or abatements multiplied by twenty-six and 22/100ths dollars (\$26.22) per rentable square foot. By way of example but not of limitation, if a tax-exempt entity that is unaffiliated with Developer has been granted a real estate tax exemption which applies to the lease (or other basis) pursuant to which such entity occupies twenty thousand (20,000) rentable square feet of the Facility, the Minimum Assessed Value would be twenty-nine thousand four hundred seventy-one two hundred eighty dollars (\$29,471,280). Subject to any reasonable confidentiality requirements of applicable third parties (other than the City acting through a department other than DPD or the City's related municipal agencies), in the event the Developer becomes aware of any facts and circumstances that may



result in the Minimum Assessed Value becoming lower than \$30,000,000 (including, without limitation, leasing part of the Facility to a tax-exempt entity as mentioned above) then Developer shall provide DPD with written notice of said facts and circumstances (which notice shall include a calculation of the new Minimum Assessed Value) within thirty (30) days; if the basis for the reduction in the Minimum Assessed Value is a lease of part of the Facility then Developer shall, along with the written notice, include a copy of the lease (which will have the date and amount of square footage prominently displayed).

(ii) No Reduction in Real Estate Taxes. Prior to the end of the Term of the Agreement or any earlier termination of this Agreement, neither the Developer nor any assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value. Notwithstanding anything herein to the contrary, Developer's covenant to limit its right to challenge real estate taxes applicable to the Property set forth in this Section 8.19 (c) shall not: (A) prevent any tenants of the Facility from pursuing any exemptions, or prevent the Developer (for the benefit of any tenants of the Facility) or any tenant from pursuing any abatements, from real estate taxes to which they may be entitled; or (B) prevent Developer or any assignee, transferee or successor in interest to the Developer from pursuing any rate objections with respect to real estate taxes for the Property.

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

(iv) Default and Remedies. Any failure by Developer or any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer to adhere to said parties' covenant to limit its right to challenge real estate taxes applicable to the Property as set forth in this Section 8.19(c) shall be a default under this Agreement and shall entitle the City to exercise any and all available remedies hereunder, including drawing down on the LOC in the Tax Penalty Amount (as defined in the next sentence). The Tax Penalty Amount shall be based on a term of ten years from the date of the Certificate is issued and shall be the product of (A) the number of (whole or partial) years remaining in the ten (10) year term and (B) twenty per-cent (20%) of the reduction in assessed value of the Property. For example, if Developer challenges the Minimum Assessed Value at the end of the 4<sup>th</sup> year after the Certificate is issued and the Minimum Assessed Value is reduced to \$25,000,000, the Tax Penalty Amount shall be as follows: 6 (years remaining) x \$1,000,000 (20% of \$5,000,000 difference in Minimum Assessed Value [\$30,000,000-\$25,000,000]).

(v) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.19(c) are and shall be covenants running with the land until the tenth (10<sup>th</sup>) anniversary of the Certificate or any earlier termination of this Agreement, and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. Prior to the tenth (10<sup>th</sup>) anniversary of the Certificate or any earlier termination of this Agreement, these restrictions shall be binding upon the Developer and its successors, assigns and transferees, provided however, that the covenants shall be automatically terminated and released on the first to occur of (i) the tenth (10<sup>th</sup>) anniversary of the Certificate and (ii) any earlier termination of this Agreement. The Developer agrees that any sale, conveyance, or transfer of title to all or any portion of the Property from and after the date hereof but prior to the tenth (10<sup>th</sup>) anniversary of the Certificate or any earlier termination of this Agreement, shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.19(c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this Section 8.19(c) at any point in time prior to the tenth (10<sup>th</sup>) anniversary of the Certificate or earlier termination of this Agreement.

**8.20 Green Roof Covenant**. The Developer will complete installation of an environmentally sound 'green roof' (the "**Green Roof**") which shall cover one-hundred per-cent (100%) of the net roof area no later than December 31, 2008. If Developer fails to completely install the Green Roof by December 31, 2008 then the City may, in its sole discretion, recapture three hundred sixty thousand dollars (\$360,000) of City Funds by drawing down on the LOC.

**8.21 Participation in City Beautification Efforts**. [INTENTIONALLY LEFT BLANK].

**8.22 Public Benefits Program**. The CNA Foundation has independently approved the public benefits program as described on Exhibit N and has authorized its Executive Director to remit the contributions described therein at any time so long as the contributions occur prior to December 31, 2005. On or before January 31, 2006, the CNA Foundation shall have provided the Developer with a report advising of the status of the completion of the foregoing public benefits program. Promptly upon the receipt of such report, the Developer shall forward a copy thereof to the City. In the event the public benefits program described in this Section 8.22 is not completed prior to the issuance of the Certificate, the City may reduce the City Funds by an amount equal to the shortfall of the total amount actually shown on said report from the total amount set forth on Exhibit N.

**8.23 Job Readiness Program**. The Developer shall work with the City, through the Mayor's Office of Workforce Development ("MOWD"), to create a job recruiting and referral program(s) to provide job applicants with the opportunity to obtain employment with respect to the jobs created by the Project and the operation of the Developer's business(es) on the Property.

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

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

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

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

## SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

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

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

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

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

(d) Each Employer, in order to demonstrate compliance with the terms of this **Section 10**, 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, by or on behalf of Developer, in connection with the Project, and shall require inclusion of these provisions in every related 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 compliance with this **Section 10.02**, to agree that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least fifty (50) percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each applicable subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

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

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

The Developer, the General Contractor and each applicable subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are

employed on the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

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

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

At the direction of DPD, affidavits and other supporting documentation will be required of the Developer, the General Contractor and each applicable 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 applicable subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget for the Project (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the applicable subcontractors to prosecution. The City may obtain payment of the liquidated damages hereunder, in the amount the appropriate City or official determines are due, by drawing the amount of said liquidated damages from the LOC.

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 (i) in all construction contracts related to the Project and (ii) in all subcontracts related to the Project and applicable to compliance with this Section 10.02.

**10.03 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 Project:

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 *et seq.*, Municipal Code of Chicago (the "**Procurement Program**"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 *et seq.*, Municipal Code of Chicago (the "**Construction Program**," and collectively with the Procurement Program, the "**MBE/WBE Program**"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this **Section 10.03**, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as set forth in **Exhibit H-2** hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 24 percent by MBEs.
- (2) At least four percent by WBEs.

(b) For purposes of this **Section 10.03** only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "**contractor**" and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a "**contract**" or a "**construction contract**" as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this **Section 10.03**. In accordance with Section 2-92-730, Municipal Code of Chicago, the Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DPD.

(d) The Developer shall deliver monthly reports to the City's monitoring staff during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, inter alia, the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining the Developer's compliance with this MBE/WBE commitment. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least five years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by the Developer, on five business days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

(e) Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, the Developer shall be obligated to discharge or cause to be discharged the disqualified General Contractor or subcontractor, and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Sections 2-92-540 and 2-92-730, Municipal Code of Chicago, as applicable.

(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 Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

(g) Prior to the execution of this Agreement, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this **Section 10.03**. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this **Section 10.03**, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, the Developer shall submit the documentation required by this **Section 10.03** to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that the Developer is not complying with its obligations under this **Section 10.03**, shall, upon the delivery of written notice to the Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the 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.

(h) In addition (or pursuant to) the provisions of those City Ordinances cited in Section 10.03 (f) above, if Developer seeks to exclude the cost of any of the applicable Project activities from the MBE/WBE Budget (attached hereto as Exhibit H-2), Developer must provide DPD with a written list of those activities (and the estimated cost of each activity) it seeks to exclude. The City, in its sole discretion, shall then determine if these items are to be excluded from the MBE/WBE Budget. After the execution of this Agreement, the Developer may not request a waiver for any Project activity and/or its associated cost.

(i) The MBE/WBE requirements will only be applicable to the costs of Tenant Build-Out work, if the work is undertaken by the Developer and the LOC will be subject to recapture in the event of any default related to the MBE/WBE requirements.

## SECTION 11. ENVIRONMENTAL MATTERS

The Developer hereby represents and warrants to the City that the Project will be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Scope Drawings, the Plans and Specifications and all amendments thereto, the Bond Ordinance 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, (provided that the foregoing is not caused by any acts or omissions of the City and whether or not it is caused by or within the control of the Developer): (i) the presence of any Hazardous Materials on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Materials from (A) all or any portion of the Property or (B) any other real property which is contiguous to the Property and in which the Developer, an Affiliate or any person directly or indirectly controlling, controlled by or under common control with the Developer or an Affiliate, 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.

If Developer has received any notice from any government environmental agency, department or office regarding the potential violation of any Environmental Laws, Developer shall provide a copy of said notice to the City and, prior to the execution of this Agreement, written verification from the appropriate government (whether City, State and/or federal) environmental agency that all identified environmental issues have been resolved to their satisfaction.



## SECTION 12. INSURANCE

The Developer shall provide and maintain, or cause to be provided, at the Developer's own expense, during the Term of the Agreement (or as otherwise specified below), the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement and Throughout the Term of the Agreement

(i) Workers Compensation and Employers Liability Insurance

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

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

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

(b) Construction

(i) Workers Compensation and Employers Liability Insurance

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

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

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and

contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability Insurance (Primary and Umbrella)

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

(iv) Railroad Protective Liability Insurance

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

(v) Builders Risk Insurance

When the Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as a loss payee as its interests may appear..

(vi) Professional Liability

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

(vii) Valuable Papers Insurance

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

(viii) Contractor's Pollution Liability

When any remediation work is performed which may cause a pollution exposure, contractor's Pollution Liability shall be provided with limits of not less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of one (1) year. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(c) Term of the Agreement

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Property. The City of Chicago is to be named as a loss payee as its interests may appear.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City of Chicago is to be named as a loss payee as its interests may appear.

(d) Other Requirements

The Developer will furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from the Developer shall not be deemed to be a waiver by the City. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the Developer of the obligation to

provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

The insurance shall provide for 30 days prior written notice to be given to the City in the event coverage is canceled or non-renewed. If the insurance does not provide for 30 days prior written notice to be given to the City in the event the coverage is substantially changed (but not canceled or non-renewed) then Developer or an Affiliate shall provide 30 days prior written notice to be given to the City in the event the coverage is substantially changed.

Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer.

The Developer agrees that insurers shall waive rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The Developer expressly understands and agrees that any coverages and limits furnished by the Developer shall in no way limit the Developer's liabilities and responsibilities specified within the Agreement documents or by law.

The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the City of Chicago shall not contribute with insurance provided by the Developer under the Agreement.

The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

The Developer shall require the General Contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the General Contractor, or subcontractors. All General Contractors and subcontractors shall be subject to the same requirements (Section (d)) of Developer unless otherwise specified herein.

If the Developer, General Contractor or any subcontractor desires additional coverages, the Developer, General Contractor and any subcontractor shall be responsible for the acquisition and cost of such additional protection.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as any such change does not increase these requirements.

### SECTION 13. INDEMNIFICATION

**13.01 General Indemnity.** Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an

“Indemnitee,” and collectively the “Indemnitees”) harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitees shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

(i) 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 Project improvement; or

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

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

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

#### **SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT**

**14.01 Books and Records.** The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at 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 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 Project and the Property (excluding confidential product information, trade secrets, proprietary product information and the like) during normal business hours for the Term of the Agreement for the purpose of confirming compliance with this 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 with the City that is not cured during any applicable cure period hereunder;
- (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 may reasonably be expected to have a material adverse effect on the Developer's ability to perform under this Agreement;
- (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;
- (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 in an amount in excess of \$500,000 which may reasonably be expected to have a material adverse effect on the Developer's ability to perform under this Agreement which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

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

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

(j) 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 ninety (90) 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(i)** and **15.01(j)** hereof, a person with a material interest in the Developer shall be one owning in excess of ten (10%) of the Developer's issued and outstanding shares of stock.

**15.02 Remedies.** Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, may suspend disbursement of City Funds, place a lien on the Property in the amount of City Funds paid, seek reimbursement of any City Funds paid and draw on the LOC as set forth in this Section 15.02 below. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to damages, injunctive relief or the specific performance of the agreements contained herein. In addition to other instances set forth in this Agreement, the City may draw on the LOC if Developer fails to maintain the Jobs Covenant as set forth in **Section 8.06**, and the Operating Covenant as set forth in **Section 8.06**. During the curative period provided pursuant to Section 15.03 hereof, Developer may (if Developer is unable to cure the applicable Event of Default) provide the City with cash in the amount of any pending draw on the LOC by the City.

**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 has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event 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 has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary

defaults which are not capable of being cured within such thirty (30) day period, 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; provided, further, that the only cure periods applicable to the Developer's failure to comply with the job creation/operation requirements of Section 8.06 hereof are those set forth in that section.

## SECTION 16. MORTGAGING OF THE PROJECT

Developer hereby represents and warrants that there are no mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof. 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." Any New Mortgage that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a "Permitted Mortgage." It is hereby agreed by and between the City and the Developer as follows:

(a) In the event that a 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 New Mortgage (other than a Permitted 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 18.15 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.15 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to 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 has no liability under this Agreement for any Event of Default of the Developer 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. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.



(c) Prior to the issuance by the City to the Developer of a 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 (with all charges pre-paid), or (d) registered or certified mail, return receipt requested (with all charges pre-paid).

If to the City:                      City of Chicago  
   Department of Planning and Development  
   121 North LaSalle Street, Room 1000  
   Chicago, IL 60602  
   Attention: Commissioner  
   Fax: (312) 744-2271

With Copies To:                      City of Chicago  
   Department of Law  
   Finance and Economic Development Division  
   121 North LaSalle Street, Room 600  
   Chicago, IL 60602  
   Fax: (312) 744-8538

If to the Developer:                      CNA Financial Corporation  
   CNA Center—40th Floor  
   333 South Wabash Avenue  
   Chicago, Illinois 60604  
   Attn: Thomas Pontarelli  
   Fax: (312) 817-4030

With Copies To:                      CNA Financial Corporation  
   CNA Center—43rd Floor  
   333 South Wabash Avenue  
   Chicago, IL 60604  
   Attn: Jacquelyne M. Belcastro  
   Fax: (312) 822-1186

And a Copy To:                      DLA Piper Rudnick Gray Cary US LLP  
   203 North LaSalle Street, Suite 1900  
   Chicago, IL 60601  
   Attn: David L. Reifman and Danielle Meltzer Cassel  
   Fax: (312) 630-5367/(312) 630-5365

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

## SECTION 18. MISCELLANEOUS

**18.01 Amendment.** This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement **Exhibit D** hereto without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this **Section 18.01** shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer (including those set forth in **Sections 10.02 and 10.03** hereof) by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by the Developer by more than ninety (90) days.

**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. No member, shareholder, official, officer, director or employee of the Developer shall be personally liable to the City or any successor in interest in the event of any default or breach by the Developer or for any amount which may become due to the City from the Developer 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, signed by the waiving party. No delay or omission

on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

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

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

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

**18.15 Assignment.** 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 unless such sale, assignment or transfer (a) occurs after the issuance of the Certificate; (b) occurs at least thirty (30) days after the City receives written notification thereof and this Agreement is amended as needed to make required informational changes including, without limitation, updates of notice provisions; (c) does not violate any other provision of this Agreement including, without limitation, **Section 8.01 (j)**; and (d)(i) is to any of its Affiliates; (ii) is to any entity into which the Developer is merged or consolidated or which consolidates into the Developer; or (iii) is to any entity that acquires all or substantially all of the assets and liabilities (including this Agreement) of the Developer. 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** (Real Estate Provisions) and **8.24** (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 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). Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

**18.17 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, acts of terrorism, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this **Section 18.17** with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this **Section 18.17** with respect to any such delay may rely on this **Section 18.17** only to the extent of the actual number of days of delay effected by any such events described above.

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

**18.19 Business Economic Support Act.** Pursuant to the Business Economic Support Act (30 ILCS 760/1 *et seq.*), if the Developer is required to provide notice under the WARN Act, the Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where the Developer has locations in the State. Failure by the

Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

**18.20 Venue and Consent to Jurisdiction.** If there is a lawsuit under this Agreement, each party hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

**18.21 Costs and Expenses.** In addition to and not in limitation of the other provisions of this Agreement, Developer agrees to pay upon demand the City's out-of-pocket expenses, including attorney's fees, incurred in connection with the enforcement of the provisions of this Agreement. This includes, subject to any limits under applicable law, attorney's fees and legal expenses, whether or not there is a lawsuit, including attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services. Developer also will pay any court costs, in addition to all other sums provided by law.

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

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

**Joinder of TCC and CCC.** In Witness Whereof each of the respective entities set forth below has caused this Joinder to this Agreement to be signed on behalf of itself, and each hereby joins for the purpose of making those representations, warranties, covenants and promises of performance made by Developer under this Agreement which are reasonably applicable to each said entity. Each of the respective entities set forth below also acknowledges (i) that it is an Affiliate of Developer and (ii) that it is and shall be bound to acknowledge and accede to any directives properly given by Developer as may be required to satisfy any and all aforementioned applicable obligations, representations, warranties, covenants and promises of performance hereunder.

**THE CONTINENTAL CORPORATION, a New York corporation**

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

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

**CONTINENTAL CASUALTY COMPANY, an Illinois insurance company**

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

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

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.

**CNA FINANCIAL CORPORATION, a Delaware corporation**

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

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

**CONTINENTAL ASSURANCE COMPANY, an Illinois insurance company**

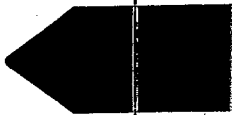
By: \_\_\_\_\_

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

**CITY OF CHICAGO**

By: Lori Healey  
Lori Healey *RCH/SL*

Commissioner, Department of Planning and Development



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid,  
DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the  
\_\_\_\_\_ of CNA Financial Corporation, a Delaware corporation (the  
"Developer"), and personally known to me to be the same person whose name is subscribed to the  
foregoing instrument, appeared before me this day in person and acknowledged that he/she signed,  
sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of  
Directors of the Developer, as his/her free and voluntary act and as the free and voluntary act of the  
Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

(SEAL)



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid,  
DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the  
\_\_\_\_\_ of Continental Assurance Company, an Illinois insurance company  
(the "Developer" or "CAC"), and personally known to me to be the same person whose name is  
subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that  
he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by  
the Board of Directors of the Developer, as his/her free and voluntary act and as the free and  
voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

(SEAL)

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Yolanda Quesada, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Lori T. Healey, personally known to me to be the the Commissioner of the Department of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument pursuant to the authority given to him/her by the City, as his/her free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 23th day of Oct, 2006.

Yolanda Quesada  
Notary Public

My Commission Expires Aug. 17, 2009

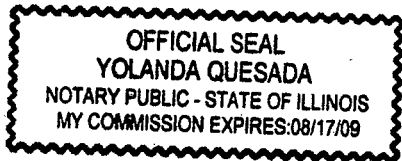


EXHIBIT A

REDEVELOPMENT AREA

Redevelopment Project Area Legal Description.

PARCEL I

A tract of land consisting of lots and blocks or parts thereof and streets and alleys of Blocks 16, 17, 35, 36, 37 and 58 in the Original Town of Chicago in the east part of the southeast quarter of Section 9, Township 39 North, Range 14 and part of Blocks 8 and 9 in Fort Dearborn Addition to Chicago in the southwest fractional quarter of Section 10, Township North, Range 14 East of the Third Principal Meridian, in the City of Chicago, County of Cook, State of Illinois and bounded as follows:

beginning at the intersection of the south line of West Lake Street and the west line of North LaSalle Street; thence north along the west line of North LaSalle Street to the north line extended west of West Haddock Place; thence east along said line to the west line of North Clark Street; thence north along said west line to the northerly line of West Wacker Drive as said northerly line was established by ordinance passed by the City Council of the City of Chicago on December 15, 1919; thence east along said northerly line of West Wacker Drive to the east line of North State Street; thence south along said east line to the north line of West Haddock Place; thence east along said line to the east line of Lot 28 extended north of Block 8 in Fort Dearborn Addition to Chicago as aforesaid; thence south along the east line of Lot 28 as aforesaid to the north line of East Lake Street; thence east along said north line to the east line of Lot 10 extended north of Block 9 in Fort Dearborn Addition to Chicago as aforesaid; thence south along the east line of Lot 10 as aforesaid to the north line of East Benton Place; thence east along said north line to the east line of North Wabash Avenue; thence south along said line to the south line of East Randolph Street; thence west along said south line to the east line of North State Street; thence south along said east line to the south line extended east of Lot 1 of Assessor's Resubdivision of Lots 1 to 5 in Block 58 in Assessor's Division of the Original Town of Chicago as aforesaid; thence west along said extended line to the west line of said Lot 1; thence north along said line to the south line of West Washington Street; thence west along said south line to the west line of North Dearborn Street; thence north along said west line to the south line of West Randolph Street; thence west along said south line to the west line of North Clark Street; thence north along said west line to the south line of West Lake Street; thence west along said south line to the place of beginning.

## PARCEL II

A tract of land comprised of all or parts of Blocks 19, 20, 31, 32, 33, 40 and 41 in the Original Town of Chicago, together with parts of streets and alleys adjoining said blocks, in the south half of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, which tract is more particularly described as follows:

beginning at the intersection of the west line of North LaSalle Street, as widened, with the north line of Block 33; thence west along said north line (being also the south line of West Lake Street) to the west line of said block; thence south along said west line (being also the east line of North Wells Street) to the north line of West Couch Place; thence east along said north line to an intersection with the northward extension of the west line of Lot 7 in Block 33; thence south along said extension, and along said west line, to the south line of said block; thence east along said south line (being also the north line of West Randolph Street) and along the eastward extension of said south line, to an intersection with the northward extension of the west line of Block 39 in the Original Town of Chicago; thence south along said extension, and along said west line (being also the east line of North LaSalle Street) to an intersection with the eastward extension of the south line of West Court Place; thence west along said extension and along said south line to the west line of Block 40 aforesaid; thence west, crossing North Wells Street, to the northeast corner of Lot 8 in Block 41 aforesaid; thence west along the north line of said lot to an intersection with the southward extension of the west line of Lot 1 in said block; thence north along said extension and along said west line, to the north line of Block 41; thence west along said north line (being also the south line of West Randolph Street) to the northwest corner of said block; thence west, crossing North Franklin Street, to the northeast corner of Block 42 in the Original Town of Chicago; thence west along the north line of said Block 1 (being also the south line of West Randolph Street) to an intersection with the southward extension of the west line of the east 20 feet of Lot 7 in Block 31 aforesaid; thence north along said extension and along said west line, to the north line of West Couch Place; thence east along said north line to the east line of Block 31; thence north along said east line (being also the west line of North Franklin Street) and along the

northward extension of said east line to an intersection with the westward extension of the south line of Block 20 aforesaid; thence east along said extension, and along said south line (being also the north line of West Lake Street) to the west line of North Post Place; thence north along said west line and along the northward extension thereof, to an intersection with the westward extension of the north line of West Haddock Place; thence east along said extension and along said north line to the east line of Block 20; thence east, crossing North Wells Street, to the intersection of the west line of Block 19 aforesaid with the north line of West Haddock Place; thence east along said north line to an intersection with the west line of North LaSalle Street as widened; thence south along said west line to the south line of Block 19; thence south, crossing West Lake Street, to the point of beginning, in the City of Chicago, Cook County, Illinois.

PARCEL III

A tract of land comprised of part of Block 58 and parts of adjacent streets and alleys in the Original Town of Chicago in Section 9, together with all or parts of Blocks 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14 and 15 and parts of adjacent streets and alleys in Fort Dearborn Addition to Chicago in Section 10, and all or parts of Blocks 1 through 10, and all or parts of Blocks 1 through 10, inclusive, and parts of adjacent streets and alleys in Fractional Section 15 Addition to Chicago, and all or parts of Blocks 113, 114, 120, 122, 123, 124, 137, 138, 139, 140, 141 and 142 in School Section Addition to Chicago, all in Township 39 North, Range 14 East of the Third Principal Meridian, which tract of land is more particularly described as follows:

beginning at the northwest corner of Block 8 in Fort Dearborn Addition to Chicago in Section 10 aforesaid; thence east along the north line of said block (being also the south line of East Wacker Drive) to the northeast corner of Lot 6 in said block; thence south along the east line of said lot to the north line of East Haddock Place; thence west along said north line to an intersection with the northward extension of the east line of Lot 28 in Block 8; thence south along said extension, and along said east line, to the south line of said block; thence east along said south line (being also the north line of East Lake Street) to an intersection with the northward extension of the east line of Lot 10 in Block 9 of Fort Dearborn Addition to Chicago; thence south along said extension, and along said east line to the north line of East Benton Place; thence east along said north line, and along the eastward extension thereof, to an intersection with the northward extension of the west line of the south part of Block 10 in Fort Dearborn Addition to Chicago; thence south along said extension, and along said west line (being also the east line of North Wabash Avenue) and along the southward extension thereof, to an

intersection with the eastward extension of the north line of Block 13 in said Fort Dearborn Addition; thence west along said extension to the northeast corner of said Block 13; thence south along the east line of said block (being also the west line of North Wabash Avenue) to the southeast corner of said block; thence west along the south line of said block (being also the north line of East Washington Street) to an intersection with the northward extension of the west line of Block 14 in Fort Dearborn Addition; thence south along said extension, and along said west line (being also the east line of North State Street) to an intersection with the eastward extension of the south line of Lot 1 in Assessor's Resubdivision of Sublots 1 to 5 of Assessor's Division of Lots 1, 2, 3, 4 and 5 of Block 58 in the Original Town of Chicago aforesaid; thence west along said extension, crossing North State Street and entering Section 9 aforesaid, and continuing along said south line of said Lot 1, to the southwest corner of said lot; thence north along the west line of said lot to the north line of Block 58; thence west along said north line (being also the south line of West Washington Street) to the northwest corner of Lot 7 in Assessor's Division of Lots 1, 2, 3, 4 and 5 of Block 58; thence south along the west line of said lot to the north line of West Calhoun Place; thence west along said north line, and along the westward extension thereof, to an intersection with the northwest extension of the east line of the south part of Block 57 in the Original Town of Chicago aforesaid; thence south along said extension and along said east line (being also the west line of North Dearborn Street) and along the southward extension of said east line to the southeast corner of said Block 57; thence southward, crossing West Madison Street and entering Section 16, to the northeast corner of Block 119 in School Section Addition aforesaid; thence south along the east line of said block (being also the west line of South Dearborn Street) to an intersection with the westward extension of the north line of Lot 20 in the subdivision of Block 142 in said School Section Addition; thence east along said extension, and along said north line, to the northeast corner of said lot; thence south along the east line of Lots 20 through 27, inclusive, in said subdivision, and along the southward extension thereof, to an intersection with the north line of Block 141 in School Section Subdivision aforesaid; thence east along said north line (being also the south line of West Monroe Street) to the northwest corner of the east half of Lot 3 in said Block 141; thence south along the west line of the east half of said lot to the north line of West Marble (hydraulic) Place; thence west along said north line, and the westward extension thereof, to an intersection with the northward extension of the east line of Lot 20 in County Clerk's Division of Block 120 in School Section Addition; thence south along said extension, and along said east line (being also the west line of South Dearborn Street) and along the southward extension of said east line, to an intersection with the westward extension of the north line of Block 140 in School Section Addition; thence east along said extension and along said north line (being also the south line of West Adams Street) to an intersection

with the west line of the east 25 feet of Lot 5 in the subdivision of Blocks 83, 92 and 140 in School Section Addition; thence south along said west line to an intersection with the westward extension of the south line of the alley in the subdivision of Lots 3 and 4 in said Block 140; thence east along said extension and along said south line to an angle point; thence southeastwardly along a southwesterly line of said alley to an angle point; thence south along a west line of said alley and along the southward extension thereof, to an intersection with the north line of Lot 13 in the aforementioned subdivision of Blocks 83, 92 and 140; thence east along said north line (being also the south line of West Quincy Street) to the northeast corner of said Lot 13; thence south along the east line of said lot to the south line of Block 140; thence west along said south line (being also the north line of West Jackson Boulevard) and along the westward extension thereof, to an intersection with the northward extension of the east line of Lots 1, 4, 8, 11, 14, 17, 20 and 23 in Wright's Subdivision of Block 122 in School Section Addition; thence south along said extension, and along said east line (being also the west line of South Federal Street) to the southeast corner of said Lot 23; thence west along the south line of said Lot 23 and the westward extension thereof, and also along the south line of Lot 22 in Wright's Subdivision (being also the north line of West Van Buren Street) to the southwest corner of said Lot 22; thence west, crossing South Clark Street, to the southeast corner of Lot 22 in the subdivision of Block 115 of School Section Addition aforesaid; thence west along the south line of said Lot 22 and Lot 23 (being also the north line of West Van Buren Street) to the southwest corner of said Lot 23; thence west, crossing South LaSalle Street, to the southeast corner of that part of said street vacated by ordinance passed February 29, 1980, and recorded August 12, 1980, as Document Number 25545766; thence south along the southward extension of the east line of said vacation to an intersection with the north line of Lot 3 in the subdivision of Block 114 of School Section Addition; thence east along said north line (being also the south line of West Van Buren Street) to the northeast corner of said lot; thence south along the east line of Lots 3, 4, 9, 10, 15, 16, 21 and 22 (being also the west line of South LaSalle Street) to the southeast corner of said Lot 22; thence south, crossing West Congress Parkway as said expressway is defined by the general ordinance passed October 31, 1940, to the intersection of the east line of Lot 6 in T. G. Wright's Subdivision of Block 113 in School Section Addition with the south line of said West Congress Parkway; thence east along said south line to an intersection with the east line of Lot 9 (said east line being also the west line of South Plymouth Court) in C. L. and I. Harmon's Subdivision of Block 137 in School Section Addition; thence north, crossing West Congress Parkway, to the intersection of the east line of Lot 24 in T. G. Wright's Subdivision of Block 138 in School Section Addition with the north line of said expressway; thence east along the north line of said West Congress Parkway, and along the north line of East Congress Parkway,

entering into Section 15 aforesaid, to an intersection with the west line of Sublot 2 of Lot 10 in Canal Trustee's Subdivision of Block 10 of Fractional Section 15 Addition to Chicago; thence south along said west line to said north line of East Congress Parkway; thence east along said north line to the east line of South Michigan Avenue as widened; thence north along said widened line, entering Section 10 aforesaid, to an intersection with the north line of Block 6 in Fort Dearborn Addition aforesaid; thence east along said north line (being also the south line of East South Water Street) to an intersection with the southward extension of the east line of Lot 6 in Dyer's Subdivision of Lots 6, 7, 8, 9, 10 and 11 in Block 5 of Fort Dearborn Addition to Chicago; thence north along said extension, and along said east line, to the northeast corner of said lot; thence north, crossing a 20 foot wide alley, to a point on the south line of Lot 11 in Dyer's Subdivision which is 124.00 feet east of the southwest corner of said lot; thence north along a line 124.00 feet east from, and parallel with, the west line of aforementioned Block 5, to an intersection with the south line of Lot 5 in said block; thence north to a point on the north line of Lot 1 in said block which is 121.18 feet east from the northwest corner of said lot; thence continuing north along a northward extension of the last described line to an intersection with the northerly line of East Wacker Drive (River Street) as widened; thence westwardly, southwestwardly, north and southwestwardly along said northerly line, and along the southerly dock line of the Chicago River to an intersection with the northward extension of the west line of Block 8 of Fort Dearborn Addition aforesaid; thence south along said extension to the point of beginning; excepting from the above described tract Lots 19 through 25, inclusive, in Block 10 in Fort Dearborn Addition to Chicago; in the City of Chicago, Cook County, Illinois.

#### STREET BOUNDARIES OF REDEVELOPMENT AREA

The Original North Loop Redevelopment Project Area is an irregularly shaped area generally bounded by Wacker Drive on the north, Wabash Avenue on the east, Washington Street on the south, and LaSalle Street on the west.

The Added Project Area consists of two (2) subareas which are contiguous to the Original North Loop Redevelopment Project Area. Subarea 1 is generally bounded by Franklin Street on the west, Haddock Place on the north, LaSalle Street on the east and Court Place on the south. Subarea 2 is generally bounded by Dearborn Street on the west, the Chicago River on the north, Michigan Avenue on the east, and Congress Parkway on the south.



**EXHIBIT B**

**PROPERTY**

**Legal Description of Land Underlying CNA Center (333 S. Wabash Ave.)**

PARCEL 1:

LOT 6 (EXCEPT THE EAST 9.0 FEET THEREOF TAKEN AND USED AS A PUBLIC ALLEY) IN BLOCK 8 OF FRACTIONAL SECTION 15, SURVEYED AND SUBDIVIDED BY THE BOARD OF CANAL COMMISSIONERS PURSUANT TO LAW IN THE MONTH OF APRIL, YEAR OF 1836, RECORDED JUNE 18, 1836, ANTE FIRE, AND RE-RECORDED SEPTEMBER 24, 1877 AS DOCUMENT NUMBER 151609, TOGETHER WITH LOTS 1 THROUGH 5 INCLUSIVE AND THE 10 FOOT VACATED PUBLIC ALLEY IN AVERELL AND GILES SUBDIVISION OF LOTS 7 AND 10 IN BLOCK 8 OF FRACTIONAL SECTION 15 ADDITION TO CHICAGO IN SECTION 15, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENTS FOR THE BENEFIT OF PARCEL 1 CREATED BY EASEMENT AGREEMENT DATED MAY 14, 2003 AND RECORDED MAY 20, 2003 AS DOCUMENT NUMBER 0314042017 MADE BY 55 E. JACKSON LLC TO CONTINENTAL ASSURANCE COMPANY OVER PORTIONS OF LOTS 1 TO 8, INCLUSIVE, IN ASSESSOR'S DIVISION OF LOTS 2 AND 3 OF BLOCK 8 IN THE NORTHWEST 1/4 OF FRACTIONAL SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, AS DESCRIBED THEREIN.

PARCEL 3:

EASEMENTS FOR THE BENEFIT OF PARCEL 1 CREATED BY UNDERGROUND PARKING GARAGE CROSS EASEMENT AGREEMENT DATED MAY 14, 2003 AND RECORDED MAY 20, 2003 AS DOCUMENT NUMBER 0314042019 MADE BY 55 E. JACKSON LLC TO CONTINENTAL ASSURANCE COMPANY OVER PORTIONS OF LOTS 1 TO 8, INCLUSIVE, IN ASSESSOR'S DIVISION OF LOTS 2 AND 3 OF BLOCK 8 IN THE NORTHWEST 1/4 OF FRACTIONAL SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, AS DESCRIBED THEREIN.

**EXHIBIT C**

**TIF-FUNDED IMPROVEMENTS**

Costs of rehabilitation, reconstruction, or repair or remodeling of existing public or private buildings	\$ 24,204,899
Costs of studies, surveys, or development of plans	<u>\$ 805,000</u>
<b>TOTAL</b>	<b>\$ 25,009,899**</b>

TOTAL

**\*\*Notwithstanding the total amount of TIF-Funded Improvements, the assistance to be provided by the City is limited to \$13,680,000 as set forth in Section 4.03(b) of the Redevelopment.**

## EXHIBIT G

### PERMITTED LIENS

1. Liens or encumbrances against the Property:

Those matters set forth as Schedule B title exceptions in the owner's title insurance policy issued by the Title Company as of the date hereof, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

2. Liens or encumbrances against the Developer or the Project, other than liens against the Property, if any:

Debtor: The Continental Corporation;  
Filing Office: Illinois Secretary of State;  
Type of Instrument: UCC Statement:

- File #: 06223990; filed 12/6/2002; Secured Party is Fifth Third Bank (Chicago), a Michigan Banking Corporation. Subject to amendment filed 10/28/2003 under File # 7751419 changing Debtor's name from Continental Courier Limited to Continental Ltd.

Debtor: Continental Casualty Company;  
Filing Office: Illinois Secretary of State;  
Type of Instrument: UCC Statement:

- File #: 04462583; filed 11/14/2001; Secured Party was Meridian Leasing Corporation, later assigned to Manufacturers Bank pursuant to assignment filed 12/12/2001 under file # 04474416. Assigning the collateral in its entirety.
- File #: 08093563; filed 1/9/2002; Secured Party is CNA Group Life Assurance Company
- File #: 08249180; filed 2/17/2004; Secured Party is Forsythe/McArthur Associates, Inc.
- File #: 08622582; filed 4/30/2004; Secured Party is Valley Forge Life Insurance Company
- File #: 08634025; filed 5/3/2004; Secured Party is Valley Forge Life Insurance Company
- File #: 09043500; filed 9/2/2004; Secured Party is IBM Credit LLC
- File #: 09420096; filed 1/4/2005; Secured Party is IBM Credit LLC
- File #: 0944866; filed 1/11/2005; Secured Party is Aetna Life Insurance Company
- File #: 09679499; filed 3/30/2005; Secured Party is IBM Credit LLC
- File #: 09817662; filed 5/10/2005; Secured Party is Deutsche Bank Securities, Inc.

Debtor: Continental Assurance Company;

Filing Office: Secretary of State (IL);

Type of Instrument: UCC Statement;

- File #: 08093555; filed 1/12/2004; Secured Party is CNA Group Life Insurance Company
- File #: 0944858; filed 1/11/2005; Secured Party is Aetna Life Insurance Company

**EXHIBIT H-1**

**PROJECT BUDGET**

**Sources**

CNA Internal Funds \$64,897,940

**Uses/Line Items**

**Building Conversion**

Construction/ Restack Costs \$21,047,246

Building Capital Expenses 3,157,653

Soft Cost/Fees 3,074,921

**Total Building Conversion** \$27,279,820

**Green Roof Installation** 360,000

**Tenant Improvements & Lease**

**Commissions** \$37,258,120

**Total Uses** \$64,897,940

## EXHIBIT H-2

### MBE/WBE PROJECT BUDGET

#### Building Conversion

Construction/ Restack Costs	\$21,047,246
Building Capital Expenses	\$3,157,653
Soft Cost/Fees	<u>\$1,026,905</u>
Total Building Conversion	\$25,231,804

Green Roof Installation \$360,000

Tenant Improvements & Lease Commissions\* \$37,258,120\*

\$62,829,924

**MBE/WBE Project Budget \$25,231,804**

MBE Total  $\$25,231,804 * 24\% = \$6,055,633$

WBE Total  $\$25,231,804 * 4\% = \$1,009,272$

\*For the MBE/WBE Project Budget calculation these costs were not included. However, since the Developer has now undertaken some of the work associated with the Tenant Improvement costs, than all of the MBE/WBE requirements will apply to said work and the MBE/WBE Project Budget and totals will be increased by the amount of Developer work undertaken included in this line item. Please see page 2 of this Exhibit H-2 (immediately following) for amount by which the MBE/WBE Project Budget and totals will increase due to work associated with Tenant Improvement undertaken by Developer. **Please note that this Exhibit H-2 is subject to further amendment to include any additional work associated with Tenant Improvement Developer undertakes.**

**CNA MBE/WBE PROJECT BUDGET -**  
**TENANT IMPROVEMENTS FOR THE CHICAGO HOUSING AUTHORITY**

**CONSTRUCTION COSTS:**

DIRECT COSTS (EXCLUDING PERMIT ALLOWANCE):	\$7,858,557
PERMIT ALLOWANCE:*	\$ 50,000
GENERAL CONDITIONS:	\$ 291,910
INSURANCE:*	\$ 94,805
OVERHEAD & PROFIT:	\$ 228,945
<u>CONTINGENCY (CONSTRUCTION &amp; MISC.): *</u>	<u>\$ 336,626</u>
<b>TOTAL:</b>	<b>\$8,860,843</b>

**SOFT COSTS (I.E., FEES TO DESIGN PROFESSIONALS & CONSULTANTS):\***

VOA ASSOCIATES INCORPORATED (ARCHITECT)	\$ 476,444
ENVIRONMENTAL SYSTEMS DESIGN, INC. (MECHANICAL, ELECTRICAL & PLUMBING ENGINEER)	\$ 197,120
AEH ENGINEERING & CONSTRUCTION SERVICES, LTD. (STRUCTURAL CONSULTANT)	\$ 24,000
PROJECT ADVANTAGE GROUP, LTD.* (MOVE CONSULTANT)	\$ 86,797
MARON STRUCTURE TECHNOLOGIES, INC.* (IT CONSULTANT)	\$ 81,500
<b>TOTAL:</b>	<b>\$ 865,861</b>

**GRAND TOTAL:** **\$9,726,704**

**MBE/WBE PROJECT BUDGET:** **\$9,076,976**

MBE TOTAL      \$9,076,976 \* 24% = \$2,178,474  
WBE TOTAL      \$9,076,976 \* 4% = \$ 363,079

\*FOR THE MBE/WBE PROJECT BUDGET CALCULATION THESE COSTS WERE NOT INCLUDED.

## EXHIBIT N

### PUBLIC BENEFITS PROGRAM

THE CNA FOUNDATION HAS INDEPENDENTLY APPROVED THE PUBLIC BENEFITS PROGRAM AS DESCRIBED IN THIS EXHIBIT N AND HAS AUTHORIZED ITS EXECUTIVE DIRECTOR TO REMIT THE CONTRIBUTIONS DESCRIBED HEREIN, NAMELY CONTRIBUTIONS IN AN AMOUNT EQUAL TO \$1,000,000 IN THE AGGREGATE, WITH SAID CONTRIBUTIONS TO OCCUR AT ANY TIME PRIOR TO DECEMBER 31, 2005, AND WITH SAID CONTRIBUTIONS MADE TO THE FOLLOWING:

ACADEMY FOR URBAN LEADERSHIP

AFTER-SCHOOL MATTERS/GALLERY 37

CARA

CHICAGO 2005 UNITED STATES CONFERENCE OF MAYORS HOST COMMITTEE

CHICAGO FIRE DEPARTMENT HIGH RISE SAFETY CONFERENCE

CHICAGO HOUSING AUTHORITY RESIDENT SCHOLARSHIPS AND JOB TRAINING PROGRAM

CHICAGO PARK DISTRICT LAGOON CLEAN-UP ENVIRONMENTAL EDUCATION PROGRAM

CHICAGO POLICE MEMORIAL FUND

CHICAGO PUBLIC LIBRARY FOUNDATION

LAKEFRONT SUPPORTIVE HOUSING

UIC LIBRARY FOUNDATION

USO OF ILLINOIS