

FY 2022

**ANNUAL TAX INCREMENT FINANCE
REPORT**



**STATE OF ILLINOIS
COMPTROLLER**

SUSANA A. MENDOZA

Name of Municipality: **City of Chicago**
 County: **Cook**
 Unit Code: **016/620/30**

Reporting Fiscal Year: **2022**
 Fiscal Year End: **12/31/2022**

FY 2022 TIF Administrator Contact Information-Required

First Name:	Maurice D.	Last Name:	Cox
Address:	City Hall, 121 N LaSalle	Title:	Administrator
Telephone:	(312) 744-4190	City:	Chicago
E-mail	TIFreports@cityofchicago.org		

I attest to the best of my knowledge, that this FY 2022 report of the redevelopment project area(s)

in the **City/Village** of:

City of Chicago

is complete and accurate pursuant to Tax Increment Allocation Redevelopment Act [65 ILCS 5/11-74.4-3 et. seq.] and or Industrial Jobs Recovery Law [65 ILCS 5/11-74.6-10 et. seq.].


Written signature of TIF Administrator

6/29/2023

Date

Section 1 (65 ILCS 5/11-74.4-5 (d) (1.5) and 65 ILCS 5/11-74.6-22 (d) (1.5)*)

FILL OUT ONE FOR EACH TIF DISTRICT		
Name of Redevelopment Project Area	Date Designated MM/DD/YYYY	Date Terminated MM/DD/YYYY
105th/Vincennes	10/3/2001	12/31/2025
107th/Halsted	4/2/2014	12/31/2038
111th/Kedzie	9/29/1999	12/31/2023
116th/Avenue O	10/31/2018	12/31/2042
119th/Halsted	2/6/2002	12/31/2026
119th/I-57	11/6/2002	12/31/2026
24th/Michigan	7/21/1999	12/31/2023
26th/King Drive	1/11/2006	12/31/2030
35th/Halsted	1/14/1997	12/31/2033
35th/State	1/14/2004	12/31/2028
35th/Wallace	12/15/1999	12/31/2023
43rd/Cottage Grove	7/8/1998	12/31/2034
47th/Ashland	3/27/2002	12/31/2026
47th/Halsted	5/29/2002	12/31/2026
47th/King Drive	3/27/2002	12/31/2026

*All statutory citations refer to one of two sections of the Illinois Municipal Code: The Tax Increment Allocation Redevelopment Act [65 ILCS 5/11-74.4-3 et. seq.] or the Industrial Jobs Recovery Law [65 ILCS 5/11-74.6-10 et. seq.]

47th/State	7/21/2004	12/31/2028
51st/Archer	5/17/2000	12/31/2024
51st/Lake Park	11/15/2012	12/31/2036
53rd Street	1/10/2001	12/31/2025
63rd/Ashland	3/29/2006	12/31/2030
63rd/Pulaski	5/17/2000	12/31/2024
67th/Cicero	10/2/2002	12/31/2026
67th/Wentworth	5/4/2011	12/31/2035
71st/Stony Island	10/7/1998	12/31/2034
73rd/University	9/13/2006	12/31/2030
79th Street Corridor	7/8/1998	12/31/2034
79th/Cicero	6/8/2005	12/31/2029
79th/Southwest Highway	10/3/2001	12/31/2025
79th/Vincennes	9/27/2007	12/31/2031
83rd/Stewart	3/31/2004	12/31/2028
87th/Cottage Grove	11/13/2002	12/31/2026
95th/Western	7/13/1995	12/31/2031
Addison South	5/9/2007	12/31/2031
Archer Courts	5/12/1999	12/31/2022
Archer/Central	5/17/2000	12/31/2024
Archer/Western	2/11/2009	12/31/2033
Armitage/Pulaski	6/13/2007	12/31/2031
Austin Commercial	9/27/2007	12/31/2031
Avalon Park/South Shore	7/31/2002	12/31/2026
Avondale	7/29/2009	12/31/2033
Belmont/Central	1/12/2000	12/31/2024
Belmont/Cicero	1/12/2000	12/31/2024
Bronzeville	11/4/1998	12/31/2034
Bryn Mawr/Broadway	12/11/1996	12/31/2032
Canal/Congress	11/12/1998	12/31/2034
Central West	2/16/2000	12/31/2024
Chicago/Central Park	2/27/2002	12/31/2026
Chicago/Kingsbury	4/12/2000	12/31/2024
Cicero/Archer	5/17/2000	12/31/2024
Cicero/Stevenson	7/20/2022	12/31/2046
Clark/Montrose	7/7/1999	12/31/2023
Clark/Ridge	9/29/1999	12/31/2023
Commercial Avenue	11/13/2002	12/31/2026
Cortland/Chicago River	4/10/2019	12/31/2043
Devon/Sheridan	3/31/2004	12/31/2028
Devon/Western	11/3/1999	12/31/2023
Diversey/Chicago River	10/5/2016	12/31/2040
Diversey/Narragansett	2/5/2003	12/31/2027
Division/Homan	6/27/2001	12/31/2025
Edgewater/Ashland	10/1/2003	12/31/2027
Elston/Armstrong Industrial Corridor	7/19/2007	12/31/2031
Englewood Mall	11/29/1989	12/31/2025
Englewood Neighborhood	6/27/2001	12/31/2025
Ewing Avenue	3/10/2010	12/31/2034
Foster/California	4/2/2014	12/31/2038
Foster/Edens	2/28/2018	12/31/2042
Fullerton/Milwaukee	2/16/2000	12/31/2024
Galewood/Armitage Industrial	7/7/1999	12/31/2023

Goose Island	7/10/1996	12/31/2032
Greater Southwest Industrial (East)	3/10/1999	12/31/2023
Greater Southwest Industrial (West)	4/12/2000	12/31/2024
Harrison/Central	7/26/2006	12/31/2030
Hollywood/Sheridan	11/7/2007	12/31/2031
Homan/Arthington	2/5/1998	12/31/2034
Humboldt Park Commercial	6/27/2001	12/31/2025
Jefferson Park	9/9/1998	12/31/2022
Jefferson/Roosevelt	8/30/2000	12/31/2024
Kennedy/Kimball	3/12/2008	12/31/2032
Kinzie Industrial Corridor	6/10/1998	12/31/2034
Lake Calumet Area Industrial	12/13/2000	12/31/2024
Lakefront	3/27/2002	12/31/2026
LaSalle Central	11/15/2006	12/31/2030
Lawrence/Broadway	6/27/2001	12/31/2025
Lawrence/Kedzie	2/16/2000	12/31/2024
Lawrence/Pulaski	2/27/2002	12/31/2026
Lincoln Avenue	11/3/1999	12/31/2023
Little Village East	4/22/2009	12/31/2033
Little Village Industrial Corridor	6/13/2007	12/31/2031
Madden/Wells	11/6/2002	12/31/2026
Madison/Austin Corridor	9/29/1999	12/31/2023
Michigan/Cermak	9/13/1989	12/31/2025
Midway Industrial Corridor	2/16/2000	12/31/2024
Midwest	5/17/2000	12/31/2036
Montclare	8/30/2000	12/31/2022
Montrose/Clarendon	6/30/2010	12/31/2034
Near North	7/30/1997	12/31/2033
North Branch South	2/5/1998	12/31/2022
North Pullman	6/30/2009	12/31/2033
Northwest Industrial Corridor	12/2/1998	12/31/2034
Ogden/Pulaski	4/9/2008	12/31/2032
Ohio/Wabash	6/7/2000	12/31/2024
Peterson/Cicero	2/16/2000	12/31/2022
Peterson/Pulaski	2/16/2000	12/31/2024
Pilsen Industrial Corridor	6/10/1998	12/31/2034
Portage Park	9/9/1998	12/31/2022
Pratt/Ridge Industrial Park Conservation Area	6/23/2004	12/31/2028
Pulaski Industrial Corridor	6/9/1999	12/31/2035
Randolph/Wells	6/9/2010	12/31/2034
Red Line Extension	12/14/2022	12/31/2058
Red Purple Modernization Phase One (Transit TIF)	11/30/2016	12/31/2052
River West	1/10/2001	12/31/2025
Roosevelt/Cicero Industrial Corridor	2/5/1998	12/31/2034
Roosevelt/Clark	4/10/2019	12/31/2043
Roosevelt/Racine	11/4/1998	12/31/2034
Roosevelt/Union	5/12/1999	12/31/2022
Roseland/Michigan	1/16/2002	12/31/2026
Sanitary and Ship Canal	7/24/1991	12/31/2027
South Chicago	4/12/2000	12/31/2024
Stevenson Brighton	4/11/2007	12/31/2031
Stockyards Southeast Quadrant Industrial	2/26/1992	12/31/2028
Stony Island Commercial/Burnside Industrial	6/10/1998	12/31/2034

x

Touhy/Western	9/13/2006	12/31/2030
Washington Park	10/8/2014	12/31/2038
West Irving Park	1/12/2000	12/31/2024
West Woodlawn	5/12/2010	12/31/2034
Western Avenue North	1/12/2000	12/31/2024
Western Avenue South	1/12/2000	12/31/2024
Western/Ogden	2/5/1998	12/31/2034
Western/Rock Island	2/8/2006	12/31/2030
Wilson Yard	6/27/2001	12/31/2025
Woodlawn	1/20/1999	12/31/2023

SECTION 2 [Sections 2 through 8 must be completed for each redevelopment project area listed in Section 1.]

FY 2022

Name of Redevelopment Project Area:

North Branch South

Primary Use of Redevelopment Project Area*: Industrial

*Types include: Central Business District, Retail, Other Commercial, Industrial, Residential, and Combination/Mixed.

If 'Combination/Mixed' List Component Types:

Under which section of the Illinois Municipal Code was Redevelopment Project Area designated? (check one):

Tax Increment Allocation Redevelopment Act

Industrial Jobs Recovery Law

Please utilize the information below to properly label the Attachments.

	No	Yes
For redevelopment projects beginning prior to FY2022, were there any amendments, to the redevelopment plan, the redevelopment project area, or the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (1) and 5/11-74.6-22 (d) (1)] If yes, please enclose the amendment (labeled Attachment A).		
For redevelopment projects beginning in or after FY2022, were there any amendments, enactments or extensions to the redevelopment plan, the redevelopment project area, or the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (1) and 5/11-74.6-22 (d) (1)] If yes, please enclose the amendment, enactment or extension, and a copy of the redevelopment plan (labeled Attachment A).	X	
Certification of the Chief Executive Officer of the municipality that the municipality has complied with all of the requirements of the Act during the preceding fiscal year. [65 ILCS 5/11-74.4-5 (d) (3) and 5/11-74.6-22 (d) (3)] Please enclose the CEO certification (labeled Attachment B).		X
Opinion of legal counsel that municipality is in compliance with the Act. [65 ILCS 5/11-74.4-5 (d) (4) and 5/11-74.6-22 (d) (4)] Please enclose the Legal Counsel Opinion (labeled Attachment C).		X
Statement setting forth all activities undertaken in furtherance of the objectives of the redevelopment plan including any project implemented and a description of the redevelopment activities. [65 ILCS 5/11-74.4-5 (d) (7) (A and B) and 5/11-74.6-22 (d) (7) (A and B)] If yes, please enclose the Activities Statement (labeled Attachment D).		X
Were any agreements entered into by the municipality with regard to the disposition or redevelopment of any property within the redevelopment project area or the area within the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (7) (C) and 5/11-74.6-22 (d) (7) (C)] If yes, please enclose the Agreement(s) (labeled Attachment E).	X	
Is there additional information on the use of all funds received under this Division and steps taken by the municipality to achieve the objectives of the redevelopment plan? [65 ILCS 5/11-74.4-5 (d) (7) (D) and 5/11-74.6-22 (d) (7) (D)] If yes, please enclose the Additional Information (labeled Attachment F).	X	
Did the municipality's TIF advisors or consultants enter into contracts with entities or persons that have received or are receiving payments financed by tax increment revenues produced by the same TIF? [65 ILCS 5/11-74.4-5 (d) (7) (E) and 5/11-74.6-22 (d) (7) (E)] If yes, please enclose the contract(s) or description of the contract(s) (labeled Attachment G).	X	
Were there any reports <u>submitted to</u> the municipality <u>by</u> the joint review board? [65 ILCS 5/11-74.4-5 (d) (7) (F) and 5/11-74.6-22 (d) (7) (F)] If yes, please enclose the Joint Review Board Report (labeled Attachment H).	X	
Were any obligations issued by municipality? [65 ILCS 5/11-74.4-5 (d) (8) (A) and 5/11-74.6-22 (d) (8) (A)] If yes, please enclose any Official Statement (labeled Attachment I). If Attachment I is answered yes, then the Analysis must be attached (labeled Attachment J).	X	
An analysis prepared by a financial advisor or underwriter, <u>chosen by the municipality</u> , setting forth the nature and term of obligation; projected debt service including required reserves and debt coverage; <u>and actual debt service</u> . [65 ILCS 5/11-74.4-5 (d) (8) (B) and 5/11-74.6-22 (d) (8) (B)] If attachment I is yes, the Analysis and an accompanying letter from the municipality outlining the contractual relationship between the municipality and the financial advisor/underwriter <u>MUST</u> be attached (labeled Attachment J).	X	
Has a cumulative of \$100,000 of TIF revenue been deposited into the special tax allocation fund? 65 ILCS 5/11-74.4-5 (d) (2) and 5/11-74.6-22 (d) (2) If yes, please enclose Audited financial statements of the special tax allocation fund (labeled Attachment K).		X
Cumulatively, have deposits of incremental taxes revenue equal to or greater than \$100,000 been made into the special tax allocation fund? [65 ILCS 5/11-74.4-5 (d) (9) and 5/11-74.6-22 (d) (9)] If yes, the audit report shall contain a letter from the independent certified public accountant indicating compliance or noncompliance with the requirements of subsection (q) of Section 11-74.4-3 (labeled Attachment L).		X
A list of all intergovernmental agreements in effect to which the municipality is a part, and an accounting of any money transferred or received by the municipality during that fiscal year pursuant to those intergovernmental agreements. [65 ILCS 5/11-74.4-5 (d) (10)] If yes, please enclose the list only, not actual agreements (labeled Attachment M).	X	
For redevelopment projects beginning in or after FY 2022, did the developer identify to the municipality a stated rate of return for each redevelopment project area? Stated rates of return required to be reported shall be independently verified by a third party chosen by the municipality. If yes, please enclose evidence of third party verification, may be in the form of a letter from the third party (labeled Attachment N).	X	

SECTION 3.1 [65 ILCS 5/11-74.4-5 (d)(5)(a)(b)(d)) and (65 ILCS 5/11-74.6-22 (d) (5)(a)(b)(d)]

FY 2022

Name of Redevelopment Project Area:
North Branch South

Provide an analysis of the special tax allocation fund.

Special Tax Allocation Fund Balance at Beginning of Reporting Period

\$ 25,864,063

SOURCE of Revenue/Cash Receipts:	Revenue/Cash Receipts for Current Reporting Year	Cumulative Totals of Revenue/Cash Receipts for life of TIF	% of Total
Property Tax Increment	\$ 10,182,016	\$ 141,698,727	95%
State Sales Tax Increment	\$ -	\$ -	0%
Local Sales Tax Increment	\$ -	\$ -	0%
State Utility Tax Increment	\$ -	\$ -	0%
Local Utility Tax Increment	\$ -	\$ -	0%
Interest	\$ 458,494	\$ 5,188,478	3%
Land/Building Sale Proceeds	\$ -	\$ -	0%
Bond Proceeds	\$ -	\$ -	0%
Transfers from Municipal Sources	\$ -	\$ 2,500,000	2%
Private Sources	\$ -	\$ -	0%
Other (identify source _____; if multiple other sources, attach schedule)	\$ -	\$ -	0%

All Amount Deposited in Special Tax Allocation Fund

\$ 10,640,510

Cumulative Total Revenues/Cash Receipts

\$ 149,387,205

100%

Total Expenditures/Cash Disbursements (Carried forward from Section 3.2)

\$ 4,895,231

Transfers to Municipal Sources

\$ 25,000,000

Distribution of Surplus

\$ 6,609,342 **

Total Expenditures/Disbursements

\$ 36,504,573

Net/Income/Cash Receipts Over/(Under) Cash Disbursements

\$ (25,864,063)

Previous Year Adjustment (Explain Below)

\$ -

FUND BALANCE, END OF REPORTING PERIOD*

\$ -

*If there is a positive fund balance at the end of the reporting period, you must complete Section 3.3

Previous Year Explanation:

** The Project terminated on 12/31/2022. This line equals the net 2022 surplus, which has been settled.

(a) Cumulative figures for the categories of 'Interest,' 'Land/Building Sale Proceeds' and 'Other' may not be fully available for this report due to either: (i) the disposal of certain older records pursuant to the City's records retention policy, or (ii) the extraordinary administrative burden of developing cumulative City records prior to the City's conversion to its current accounting system in 2003.

FY 2022

Name of Redevelopment Project Area:

North Branch South

ITEMIZED LIST OF ALL EXPENDITURES FROM THE SPECIAL TAX ALLOCATION FUND

PAGE 1

SECTION 3.2 A
PAGE 2

SECTION 3.2 A
PAGE 3

TOTAL ITEMIZED EXPENDITURES

\$ 4,895,231

Section 3.2 B [Information in the following section is not required by law, but would be helpful in creating fiscal transparency.]

FY 2022

Name of Redevelopment Project Area:

North Branch South

List all vendors, including other municipal funds, that were paid in excess of \$10,000 during the current reporting year.

(1) Costs relate directly to the salaries and fringe benefits of employees working solely on tax increment financing districts.

* This table may include payments for Projects that were undertaken prior to 11/1/1999.

SECTION 3.3 [65 ILCS 5/11-74.4-5 (d) (5d) 65 ILCS 5/11-74.6-22 (d) (5d)]

FY 2022

Name of Redevelopment Project Area:

North Branch South

Breakdown of the Balance in the Special Tax Allocation Fund At the End of the Reporting Period by source

FUND BALANCE BY SOURCE \$ 0

Total Amount Designated for Project Costs

TOTAL AMOUNT DESIGNATED **\$6**

SURPLUS/(DEFICIT) _____ 66

* The Project terminated on 12/31/2022. Therefore, this line equals the Fund Balance by Source as of the termination date of the Project.

SECTION 4 [65 ILCS 5/11-74.4-5 (d) (6) and 65 ILCS 5/11-74.6-22 (d) (6)]

FY 2022

Name of Redevelopment Project Area:

North Branch South

Provide a description of all property purchased by the municipality during the reporting fiscal year within the redevelopment project area.

<input checked="" type="checkbox"/>	Indicate an 'X' if no property was acquired by the Municipality within the redevelopment project area.
Property (1):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (2):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (3):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (4):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (5):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (6):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (7):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

SECTION 5 [20 ILCS 620/4.7 (7)(F)]

FY 2022

Name of Redevelopment Project Area:

North Branch South

PAGE 1

Page 1 must be included with TIF report. Pages 2 and 3 are to be included ONLY if projects are listed.

Select ONE of the following by indicating an 'X':

1. <u>NO</u> projects were undertaken by the Municipality Within the Redevelopment Project Area.	<input type="checkbox"/>
2. The Municipality <u>DID</u> undertake projects within the Redevelopment Project Area. (If selecting this option, complete 2a.)	X
2a. The total number of <u>ALL</u> activities undertaken in furtherance of the objectives of the redevelopment plan:	3

LIST ALL projects undertaken by the Municipality Within the Redevelopment Project Area:

TOTAL:	11/1/99 to Date	Estimated Investment for Subsequent Fiscal Year	Total Estimated to Complete Project
Private Investment Undertaken (See Instructions)	\$ 3,200,000	\$ -	\$ 0
Public Investment Undertaken	\$ 4,336,939	\$ 0	\$ 0
Ratio of Private/Public Investment	45/61	-	0

Project 1: SBIF - North Branch South (Project Completed)**

Private Investment Undertaken (See Instructions)	\$ 3,200,000	-	\$ -
Public Investment Undertaken	\$ 1,526,788	-	\$ -
Ratio of Private/Public Investment	2 7/73	-	-

Project 2: Morton Salt (Project Completed)

Private Investment Undertaken (See Instructions)	0	-	\$ -
Public Investment Undertaken	\$ 2,514,935	-	\$ -
Ratio of Private/Public Investment	0	-	-

Project 3: TIFWorks - North Branch South (Project Completed)**

Private Investment Undertaken (See Instructions)	0	-	\$ -
Public Investment Undertaken	\$ 295,216	-	\$ -
Ratio of Private/Public Investment	0	-	-

Project 4:

Private Investment Undertaken (See Instructions)		-	\$ -
Public Investment Undertaken		-	\$ -
Ratio of Private/Public Investment	0	-	-

Project 5:

Private Investment Undertaken (See Instructions)		-	\$ -
Public Investment Undertaken		-	\$ -
Ratio of Private/Public Investment	0	-	-

Project 6:

Private Investment Undertaken (See Instructions)		-	\$ -
Public Investment Undertaken		-	\$ -
Ratio of Private/Public Investment	0	-	-

Section 5 Notes

FY 2022

Name of Redevelopment Project Area

North Branch South

General Notes

(a) Each actual or estimated Public Investment reported here is, to the extent possible, comprised only of payments financed by tax increment revenue, and may include interest amounts paid to finance the Public Investment amount. In contrast, each actual or estimated Private Investment reported here is, to the extent possible, comprised of payments financed by revenues that are not tax increment revenues and, therefore, may include private equity, private lender financing, private grants, other public monies, or other local, state or federal grants or loans.

(b) Each amount reported here under Public Investment Undertaken, Total Estimated to Complete Project, is the maximum amount of payments financed by tax increment revenue that could be made pursuant to the corresponding Project's operating documents, but not including interest that may later be payable on developer notes, and may not necessarily reflect actual expenditures, if any, as reported in Section 3 herein. The total public investment amount ultimately made under each Project will depend upon the future occurrence of various conditions, including interest that may be payable on developer notes as set forth in the Project's operating documents.

Project/Program-Specific Notes

** Depending on the particular goals of this type of program, the City may: i) make an advance disbursement of the entire public investment amount to the City's program administrator, ii) disburse the amounts through an escrow account, or iii) pay the funds out piecemeal to the program administrator or to the ultimate grantee as each ultimate grantee's work is approved under the program.

SECTION 6 [Information requested in SECTION 6.1 is not required by law, but may be helpful in evaluating the performance of TIF in Illinois.]

SECTIONS 6.2, 6.3, and 6.4 are required by law, if applicable. (65 ILCS 5/11-74.4-5(d))]

FY 2022

Name of Redevelopment Project Area:

North Branch South

SECTION 6.1-For redevelopment projects beginning before FY 2022, complete the following information about job creation and retention.

Number of Jobs Retained	Number of Jobs Created	Job Description and Type (Temporary or Permanent)	Total Salaries Paid
			\$ -
			\$ -
			\$ -
			\$ -
			\$ -
			\$ -
			\$ -

SECTION 6.2-For redevelopment projects beginning in or after FY 2022, complete the following information about projected job creation and actual job creation.

The number of jobs, if any, projected to be created at the time of approval of the redevelopment agreement	The number of jobs, if any, created as a result of the development to date, for the reporting period, under the same guidelines and assumptions as was used for the projections used at the time of approval of the redevelopment agreement

* see footnote on following page

** see footnote on following page

SECTION 6.3-For redevelopment projects beginning in or after FY 2022, complete the following information about increment projected to be created and actual increment created.

The number increment projected to be created at the time of approval of the redevelopment agreement	The amount of increment created as a result of the development to date, for the reporting period, using the same assumptions as was used for the projections used at the time of approval of the redevelopment agreement
Morton Salt \$1,271,022	Morton Salt \$0

^ see footnote on following page

^^ see footnote on following page

SECTION 6.4-For redevelopment projects beginning in or after FY 2022, provide the stated rate of return identified by the developer to the municipality and verified by an independent third party, if any:

N/A

Section 6 Notes

FY 2022

Name of Redevelopment Project Area:
North Branch South

General Notes

Section 6.2:

* All RDAs shown were entered into during or after FY 2022. The number of jobs is limited to permanent, full-time or full-time-equivalent, jobs that are either required or indicated as aspirational in the RDA and are anticipated to be created or retained at some time during the term of the RDA. Jobs that are part-time, construction, temporary or seasonal are not shown. RDAs are removed once the job covenant ends or the RDA is terminated. RDAs with no jobs covenant are not shown. TIFWorks and similar job training programs are not shown.

** The number of jobs shown is limited to those created or retained, cumulatively, from the year the RDA was entered into through the end of the reporting year.

Section 6.3:

^ All RDAs shown were entered into during or after FY 2022. The amount of increment increase projected is the cumulative amount that is projected to be created for all PINs in the RDA over the term of the RDA. RDAs are removed once the RDA is terminated. RDAs involving tax-exempt properties and those with no increment increase projected by the City over the term of the respective RDA, are not shown.

^^ The amount shown is the increase in cumulative PIN increment collected from the year the RDA was entered into through the end of the reporting year, to the extent the information is available from tax records.

SECTION 7 [Information in the following sections is not required by law, but may be helpful in evaluating the performance of TIF in Illinois.]

FY 2022

Name of Redevelopment Project Area:

North Branch South

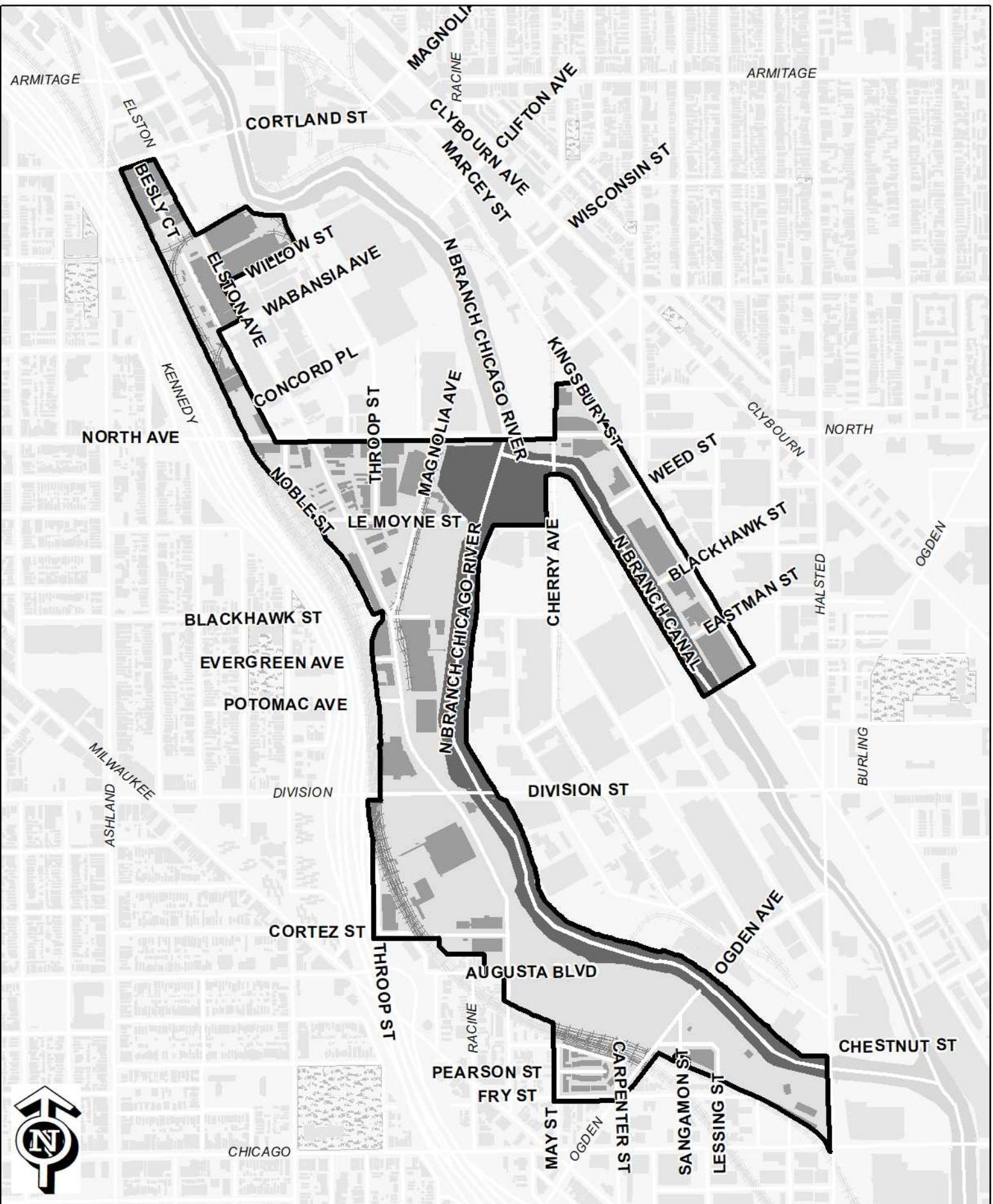
Provide a general description of the redevelopment project area using only major boundaries.

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Optional Documents	Enclosed
Legal description of redevelopment project area	
Map of District	X

North Branch (South) TIF

Annual Report



SECTION 8 [Information in the following section is not required by law, but may be helpful in evaluating the performance of TIF in Illinois.]

FY 2022

Name of Redevelopment Project Area:

North Branch South

Provide the base EAV (at the time of designation) and the EAV for the year reported for the redevelopment project area.

Year of designation	Base EAV	Reporting Fiscal Year EAV
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List all overlapping tax districts in the redevelopment project area. If overlapping taxing district received a surplus, list the surplus.

Indicate an 'X' if the overlapping taxing districts did not receive a surplus.

Attachment B

STATE OF ILLINOIS)
)
)
COUNTY OF COOK)

CERTIFICATION

TO:

Susana Mendoza
Comptroller of the State of Illinois
555 W. Monroe Street, 1400S-A
Chicago, Illinois 60661
Attention: Rosanna Barbaro-Flores,
Director of Local Government

Daryl Okrzesik, Treasurer
City Colleges of Chicago
3901 South State Street
Chicago, Illinois 60609

Xochitl Flores, Bureau Chief
Cook County Bureau of Economic Dev.
69 West Washington Street, Suite 2900
Chicago, Illinois 60602

Damon Howell, Chief Financial Officer
Forest Preserve District of Cook County
69 W. Washington Street, Suite 2060
Chicago, IL 60602

Pedro Martinez
Chief Executive Officer
Chicago Board of Education
42 West Madison Street
Chicago, Illinois 60602

Jacqueline Torres, Director of Finance
Metropolitan Water Reclamation District
of Greater Chicago
100 East Erie Street, Room 2429
Chicago, Illinois 60611

Charles Givines, President
South Cook County Mosquito Abatement District
155th & Dixie Highway
P.O. Box 1030
Harvey, Illinois 60426

Rosa Escareno, General Superintendent & CEO
Chicago Park District
541 North Fairbanks, 7th Floor
Chicago, Illinois 60611

I, Brandon Johnson, in connection with the annual report (the “Report”) of information required by Section 11-74.4-5(d) of the Tax Increment Allocation Redevelopment Act, 65 ILCS5/11-74.4-1 et seq. (the “Act”), with regard to the North Branch South Redevelopment Project Area (the “Redevelopment Project Area”), do hereby certify as follows:

1. I am the duly qualified and acting Mayor of the City of Chicago, Illinois (the “City”) and, as such, I am the City’s Chief Executive Officer. This Certification is being given by me in such capacity.

Attachment B

2. During the preceding fiscal year of the City, being January 1 through December 31, 2022, the City complied, in all material respects, with the requirements of the Act, as applicable from time to time, regarding the Redevelopment Project Area.

3. In giving this Certification, I have relied on the opinion of the Acting Corporation Counsel of the City furnished in connection with the Report.

4. This Certification may be relied upon only by the addressees hereof.

IN WITNESS WHEREOF, I have hereunto affixed my official signature as of this June 29, 2023.



Brandon Johnson, Mayor
City of Chicago, Illinois

The image shows a handwritten signature in blue ink that reads "Brandon Johnson". To the right of the signature, there is a handwritten oval containing the letters "MPP". Below the signature, the text "Brandon Johnson, Mayor" is printed in a smaller, sans-serif font, followed by "City of Chicago, Illinois" on the next line.



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CITY OF CHICAGO

June 29, 2023

Susana Mendoza
Comptroller of the State of Illinois
555 W. Monroe Street, 1400S-A
Chicago, Illinois 60661
Attention: Rosanna Barbaro-Flores,
Director of Local Government

Daryl Okrzesik, Treasurer
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Rosa Escareno, General Superintendent & CEO
Chicago Park District
541 North Fairbanks, 7th Floor
Chicago, Illinois 60611

**Re: North Branch South Redevelopment Project Area
(the "Redevelopment Project Area")**

Dear Addressees:

I am the Acting Corporation Counsel of the City of Chicago, Illinois (the "City") and, in such capacity, I am the head of the City's Law Department. In such capacity, I am providing the opinion required by Section 11-74.4-5(d)(4) of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (the "Act"), in connection with the submission of the report (the "Report") in accordance with, and containing the information required by, Section 11-74.4-5(d) of the Act for the Redevelopment Project Area.

Attorneys, past and present, in the Law Department of the City and familiar with the requirements of the Act, have had general involvement in the proceedings affecting the Redevelopment Project Area, including the preparation of ordinances adopted by the City Council of the City with respect to the following matters: approval of the redevelopment plan and project for the Redevelopment Project Area, designation of the Redevelopment Project Area as a redevelopment project area, and adoption of tax increment allocation financing for the Redevelopment Project Area, all in accordance with the then applicable provisions of the Act. Various departments of the City, including, if applicable, the Law Department, Department of Planning and Development, Department of Finance and Office of Budget and Management (collectively, the "City Departments"), have personnel responsible for and familiar with the activities in the Redevelopment Project Area affecting such City Departments and with the requirements of the Act in connection therewith. Such personnel are encouraged to seek and obtain, and do seek and obtain, the legal guidance of the Law Department with respect to issues that may arise from time to time regarding the requirements of, and compliance with, the Act.

In my capacity as Acting Corporation Counsel, I have relied on the factual certification of the Commissioner of the Department of Planning and Development attached hereto as Schedule 1, along with the general knowledge and actions of the appropriately designated and trained staff of the Law Department and other applicable City Departments involved with the activities affecting the Redevelopment Project Area. In addition, I have caused to be examined or reviewed by members of the Law Department of the City the certified audit report, to the extent required to be obtained by Section 11-74.4-5(d)(9) of the Act and submitted as part of the Report, which is required to review compliance with the Act in certain respects, to determine if such audit report contains information that might affect my opinion. I have also caused to be examined or reviewed such other documents and records as were deemed necessary to enable me to render this opinion. Nothing has come to my attention that would result in my need to qualify the opinion hereinafter expressed.

Based on the foregoing, it is my opinion that, in all material respects, the City is in compliance with the provisions and requirements of the Act in effect and then applicable at the time actions were taken from time to time with respect to the Redevelopment Project Area.

This opinion is given in an official capacity and not personally and no personal liability shall derive herefrom. Furthermore, the only opinion that is expressed is the opinion specifically set forth herein, and no opinion is implied or should be inferred as to any other matter. Further, this opinion may be relied upon only by the addressees hereof and the Mayor of the City in providing his required certification in connection with the Report, and not by any other party.

Very truly yours,

Mary B. Richardson-Lowry
Acting Corporation Counsel

SCHEDULE 1

June 29, 2023

CERTIFICATION

Commissioner

Department of Planning and Development
City of Chicago

I, Maurice D. Cox, am the Commissioner of the Department of Planning and Development ("DPD") of the City of Chicago, Illinois (the "City") and, in such capacity, I am the head of DPD. I am also the TIF Administrator for the City for purposes of the Report (defined below). In such capacity, I am providing this Certification for the Corporation Counsel of the City to rely upon in connection with the opinion required by either Section 11-74.4-5(d)(4) of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1et.seq. (the "Act"), or by Section 11-74.6-22(d)(4) of the Industrial Jobs Recovery Law, 65 ILCS 5/11-74.6-1 et seq. (the "Law"), as the case may be, in connection with the submission of an annual report for calendar year 2022 (the "Report") containing the information required by Section 11-74.4-5(d) of the Act or Section 11-74.6-22(d) of the Law for each of the Redevelopment Project Areas listed in Section 1 of the Report and hereby incorporated into this Certification (the "Redevelopment Project Areas").

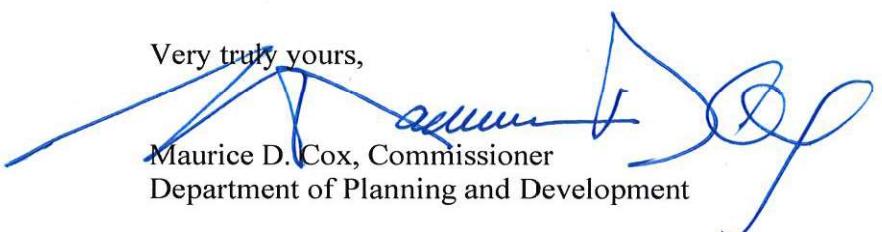
I hereby certify the following to the Corporation Counsel of the City:

1. DPD has overall responsibility for and is familiar with the activities in each of the Redevelopment Project Areas. DPD personnel are familiar with the requirements of the Act and the Law and are encouraged to seek and obtain, and do seek and obtain, the legal guidance of the City's Department of Law with respect to legal issues that may arise from time to time regarding the requirements of, and compliance with, the Act and the Law.
2. DPD personnel have monitored compliance with the requirements of the Act and the Law during the previous fiscal year under my supervision and to my reasonable satisfaction in connection with each of the Redevelopment Project Areas.

Based on the foregoing, I hereby certify to the Corporation Counsel of the City that, in all material respects, DPD has taken the appropriate actions to ensure that the City is in compliance with the provisions and requirements of the Act and the Law in effect and then applicable at the time actions were taken from time to time with respect to each of the Redevelopment Project Areas.

This Certification is given in an official capacity and not personally, and no personal liability shall derive herefrom. Further, this Certification may be relied upon only by the Corporation Counsel of the City in providing the required legal opinion in connection with the Report, and not by any other party.

Very truly yours,
Maurice D. Cox, Commissioner
Department of Planning and Development

A handwritten signature in blue ink, appearing to read "Maurice D. Cox", is written over the typed name. It includes a stylized "M" and "C" and ends with a flourish.

FY 2022

Name of Redevelopment Project Area:

North Branch South

Projects that were implemented during the preceding fiscal year are set forth below:

<u>Name of Project</u>
Morton Salt

This agreement was prepared by and
after recording return to:

J. Allen Thomas, Esq.
City of Chicago Department of Law
121 North LaSalle Street, Room 600
Chicago, IL 60602

MORTON SALT REDEVELOPMENT AGREEMENT

This Morton Salt Redevelopment Agreement (this "Agreement") is made as of this 28th day of July, 2022, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Departments of Planning and Development ("DPD") and Transportation ("CDOT"), and 1357 Property Owner, LLC, a Delaware limited liability company (the "Developer").

RECITALS

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

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., 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: (1) on February 5, 1998, "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the North Branch (South) Redevelopment Project Area" (the "Plan Adoption Ordinance"); (2) on February

5, 1998, "An Ordinance of the City of Chicago, Illinois Designating the North Branch (South) Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; (3) on February 5, 1998, "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the North Branch (South) Redevelopment Project Area" (the "TIF Adoption Ordinance"); (4) on July 25, 2018, "Amendment No. 1 to the North Branch (South) Redevelopment Project Area Tax Increment Finance Program Redevelopment Plan and Project" (the "1st Plan Amendment"); and (5) on April 10, 2019, "Amendment Number 2 to the North Branch (South) Redevelopment Project Area Tax Increment Finance Program Redevelopment Project and Plan" (the "2d Plan Amendment") (items (1) - (5) 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 intends to undertake public infrastructure improvements that will facilitate the development of a vacant 4.2-acre site located within the Redevelopment Area and legally described on Exhibit B hereto (the "Property"), and, within the time frames set forth in Section 3.01 hereof, shall commence and complete construction of the public infrastructure components. Future development of the Property is anticipated to include approximately 97,404 square feet of mixed-use, office, commercial, retail, and entertainment space. The TIF-Funded Infrastructure Components, as defined below (individually, an "Infrastructure Component", and collectively, "Infrastructure Components") and set forth on Exhibit C, are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

The TIF-Funded Infrastructure Components, described in more detail in Exhibit C, include the following:

"Blackhawk Street Improvement" shall mean full improvement of Blackhawk Street from Elston Avenue in the west to the North Branch of the Chicago River in the east.

"Blackhawk Street Crash Wall" shall mean a crash wall on the east end of Blackhawk Street, where it ends at the west bank of the North Branch of the Chicago River.

"Elston/Blackhawk/Magnolia Traffic Signal" shall mean a new three-way traffic signal at the intersection of Elston Avenue, Blackhawk Street, and Magnolia Avenue.

"North/Magnolia Traffic Signal" shall mean a new traffic signal at the intersection of North Avenue and Magnolia Avenue, including a new turning lane on North Avenue.

"Division/Elston Intersection Improvements" shall mean a new turn arrow and pedestrian improvements at the intersection of West Division and North Elston.

"Magnolia Street Improvement" shall mean surface, curb, and sidewalk improvements on Magnolia Avenue.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago North Branch (South) Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan") included in the Plan Adoption Ordinance and published at pages 61070 - 61203 of the Journal of the Proceedings

of the City Council of February 5, 1998, as amended by the 1st Plan Amendment and 2d Plan Amendment.

F. City Financing: The City is to fund 100% of the TIF-eligible costs for the construction of the Infrastructure Components, estimated to cost Two Million, Five Hundred Forty-Seven Thousand, Six Hundred Dollars (\$2,547,600), with a loan of Incremental Taxes from the Redevelopment Plan. The amount for the TIF-eligible costs may change prior to the approval of this Agreement by City Council, but the costs are not to exceed \$2,547,600 (the "Guaranteed Maximum Price.") The City agrees to use Incremental Taxes to loan the Developer an amount not to exceed the Guaranteed Maximum Price to fund the construction of the Infrastructure Components pursuant to the terms and conditions of this Agreement.

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

SECTION 1. RECITALS, HEADINGS AND EXHIBITS

The foregoing recitals are hereby incorporated into this Agreement by reference. The paragraph and section headings contained in this Agreement, including without limitation those set forth in the following table of contents, are for convenience only and are not intended to limit, vary, define or expand the content thereof. Developer agrees to comply with the requirements set forth in the following exhibits which are attached to and made a part of this Agreement. All provisions listed in the Exhibits have the same force and effect as if they had been listed in the body of this Agreement.

Table of Contents	List of Exhibits
1. Recitals, Headings and Exhibits	A *Redevelopment Area
2. Definitions	B *Property
3. The Project	C *TIF-Funded Improvements
4. Financing	D [intentionally omitted]
5. Conditions Precedent	E Construction Contract
6. Agreements with Contractors	F [intentionally omitted]
7. Completion of Construction or Rehabilitation	G *Permitted Liens
8. Covenants/Representations/Warranties of Developer	H-1 *Project Budget
9. Covenants/Representations/Warranties of the City	H-2 *MBE/WBE Budget
10. Developer's Employment Obligations	I [intentionally omitted]
11. Environmental Matters	J Opinion of Developer's Counsel
12. Insurance	K [intentionally omitted]
13. Indemnification	L Requisition Form
14. Maintaining Records/Right to Inspect	(An asterisk (*) indicates which exhibits are to be recorded.)
15. Defaults and Remedies	
16. Mortgaging of the Project	
17. Notice	
18. Miscellaneous	

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.

"Acquisition" shall have the meaning set forth in the Recitals hereof.

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

"Annual Compliance Report" shall mean a signed affidavit from Developer to the City certifying that no Capital Events have occurred in the previous year.

"Available Project Funds" shall have the meaning set forth for such term in Section 4.07 hereof.

"Capital Event" shall mean during the Term of the Agreement, any arm's-length sale, transfer or refinancing of the Project, Property, or any part thereof, including any New Mortgage, except for (i) refinancing of construction loan Lender Financing to a permanent loan; (ii) refinancing to a lower interest rate; (iii) enforcement of the Lender Financing or deed in lieu thereof; or (iv) intraparty sales or transfers of ownership interests between or among equity partners as of the commencement of the Term of the Agreement.

"Certificate" shall mean the Infrastructure Component Completion Certificate 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 and Section 3.05, respectively.

"City Contract" shall have the meaning set forth in Section 8.01(l) hereof.

"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.

"Contract" shall have the meaning set forth in Section 10.03 hereof.

"Contractor" shall have the meaning set forth in Section 10.03 hereof.

"Construction Contract" shall mean that certain contract, substantially in the form attached hereto as Exhibit E, to be entered into between Developer and the General Contractor providing for construction of the Project.

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

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

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

"Employment Plan" shall have the meaning set forth in Section 5.12 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 "Super-lien" 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.

"Equity" shall mean funds of 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).

"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 Interest" shall have the meaning set forth for such term in Section 2-156-010 of the Municipal Code.

"Financial Statements" shall mean complete audited financial statements of Developer prepared by a certified public accountant in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods.

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

"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.

"Human Rights Ordinance" shall have the meaning set forth in Section 10 hereof.

"In Balance" shall have the meaning set forth in Section 4.07 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 TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

“Indemnitee” and “Indemnitees” shall have the meanings set forth in Section 13.01 hereof.

“Infrastructure Component Completion Certificate” shall mean the certificate of completion that the City may issue upon completion of the Project pursuant to Section 7.01 hereof.

“LEED Certification” shall mean a basic Certification of the Rehabilitation Project under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System maintained by the U.S. Green Building Council and applicable to commercial interiors.

“Lender Financing” shall mean funds borrowed by 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.

“MBE/WBE Program” shall have the meaning set forth in Section 10.03 hereof.

“MSRB” shall have the meaning set forth in Section 8..27(c) hereof

“Municipal Code” shall mean the Municipal Code of the City of Chicago, as amended from time to time.

“New Mortgage” shall have the meaning set forth in Article 16 hereof.

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

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

“Permitted Mortgage” shall have the meaning set forth in Article 16 hereof.

“Plans and Specifications” shall mean initial construction documents containing a site plan and working drawings and specifications for the Project, as submitted to the City as the basis for obtaining permits for the Project.

“Prior Expenditure(s)” 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, furnished by 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.

“Scope Drawings” shall mean preliminary construction documents containing a site plan and preliminary drawings and specifications for the Project.

“Survey” shall mean a plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property, meeting the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, effective February 23, 2011, dated within 75 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City or lender(s) providing Lender Financing).

“Term of the Agreement” shall mean the period of time commencing on the Closing Date until Developer makes the final payment of the Loan.

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

“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.

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

“Title Company” shall mean American Title & Trust.

“Title Policy” shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing Developer as the insured, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any, issued by the Title Company.

“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. With respect to the Infrastructure Components, Developer shall, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17 hereof: (i) commence construction no later than April 1, 2022; and (ii) complete construction no later than December 31, 2022.

3.02 Preconditions to Construction

(a) **Scope Drawings and Approved Plans and Specifications**. Notwithstanding any term of this Agreement to the contrary, the Developer has provided DPD and CDOT with detailed Scope Drawings and Approved Plans and Specifications prior to the start of construction of each Infrastructure Component. The Scope Drawings and Approved Plans and Specifications include a project budget for each Infrastructure Component, which are approved by the City. Developer shall conduct the construction of an Infrastructure Component in accordance with the applicable Approved Plans and Specifications, as well as any applicable term of the Agreement.

Each Infrastructure Component shall be completed to "CDOT standard," which means that all materials and work shall be designed, installed, and constructed in accordance with (i) the most current version of the CDOT's Regulations for Opening, Repair and Construction in the Public Way and its appendices and correlated standards of other departments, or the successor standards or publication adopted by CDOT, (ii) the current AASHTO standards, and (iii) the current IDOT standards. No material deviation from the Approved Plans and Specifications shall be made without the prior written approval of CDOT. The Approved Plans and Specifications shall substantially conform to the terms of this Agreement and applicable federal, state and local laws, ordinances and regulations.

At the City's election, Developer shall be required to fund the additional cost of bringing the Infrastructure Component into compliance with this Agreement or any applicable federal, state and local laws, ordinances and regulations.

After such initial approval, subsequent proposed changes to the Agreement, Scope Drawings, and Approved Plans and Specifications shall be submitted to CDOT and DPD and any other applicable City agency as a Change Order pursuant to Section 3.04 hereof.

(b) [intentionally omitted]

(c) **Governmental Approvals**. Prior to the start of construction of each Infrastructure Component, Developer shall have secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DPD. Developer shall submit all necessary documents to the City's Building Department, CDOT, 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. Developer has furnished to DPD and CDOT, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than the Guaranteed Maximum Price. Developer hereby certifies to the City that (a) the City Funds, together with Lender Financing and Equity described in Section 4.02 hereof, if any, shall be sufficient to complete the Project; and (b) the Project Budget is true, correct and complete in all material respects. 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, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Agreement, Scope Drawings, and Approved Plans and Specifications must be submitted by Developer to DPD and CDOT 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 Developer to DPD and CDOT for DPD's and CDOT's prior written approval: (a) a change in the use of the Property to a use other than one allowed for in the Planned Development; (b) a delay in the completion of the Agreement by six (6) months or more; or (c) Change Orders resulting in an aggregate increase to the Project Budget for the Agreement of ten percent (10%) or more. 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 Developer of DPD's written approval (to the extent said City prior 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 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 within 10 business days after the execution of such Change Order and Developer, in connection with such notice, shall identify to DPD the source of funding therefor.

3.05 DPD and CDOT Approval. Any approval granted by DPD or CDOT of the Agreement and the Change Orders is for the purposes of this Agreement or the 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 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 or CDOT approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. Developer shall not commence construction of the Project until Developer has obtained all necessary permits and approvals (including but not limited to DPD's and CDOT's approval of the Agreement) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

3.07 Consultant Engineer. Developer shall retain the services of a qualified and licensed engineer experienced in the construction of Infrastructure Components and approved by CDOT (the "Consultant Engineer"). The Consultant Engineer shall report to CDOT and be responsible for seeing that the Infrastructure Components are constructed in accordance with the Approved

Plans and Specifications. The Consultant Engineer's scope of work shall include, but not be limited to, preparation of all construction documentation in accordance with the applicable requirements of CDOT's Construction Manual, quality assurance and quality control, review of all contractor submittals including shop drawings, material submittals and catalogue cuts, providing planning coordination, determining the appropriateness of any proposed modifications to the Plans and Specifications, preparing punchlists on behalf of the City and supervising project closeout and acceptance of the work. Staffing shall be as determined by agreement of the City and Developer, and shall be adequate to cover all aspects of the construction of the Infrastructure Components. Costs for the Consultant Engineer may be added to the Project Budget and is eligible for reimbursement as a TIF-Funded Improvement.

3.08 Progress Reports and Survey Updates. 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).

3.09 Inspecting Agent or Architect. 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 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 hereunder pursuant to Section 4.03 hereafter.

3.10 Barricades. Prior to commencing any construction requiring barricades, 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. CDOT retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.11 Signs and Public Relations. Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the 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 Developer, the Property and the Project in the City's promotional literature and communications.

3.12 Utility Connections. 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 Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.13 Permit Fees. In connection with the Project, 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 is estimated to be the Guaranteed Maximum Price, which is to be applied in the manner set forth in the Project Budget. Such cost shall be funded from the City by a loan from Incremental Taxes.

4.02 Developer Funds. Equity and/or Lender Financing may be used to pay any Project cost, including but not limited to Redevelopment Project Costs.

4.03 City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse Developer for the costs of the construction of Infrastructure Components. Exhibit C sets forth, by line item, the Infrastructure Components 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.

(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 loan Developer up to the Guaranteed Maximum Price in City funds from Incremental Taxes (the "City Funds") to pay for or reimburse Developer for the costs of the construction of the Infrastructure Components, provided, however, that the total amount of City Funds expended for the construction of Infrastructure Components shall be an amount not to exceed the Guaranteed Maximum Price; and provided further, that Incremental Taxes shall be available to pay costs related to the Infrastructure Components and allocated by the City for that purpose to the extent that the amount of the Incremental Taxes deposited into the TIF Fund shall be sufficient to pay for such costs. Developer acknowledges and agrees that the payment of City Funds is subordinated to the payment of those prior obligations made prior to the Closing Date, as set forth herein in Exhibit P. Any obligations made by the City after the Closing Date shall be subordinated to the payment of the City Funds.

Developer acknowledges and agrees that the City's obligation to loan City Funds to pay for Infrastructure Components is contingent upon the fulfillment of the conditions set forth above. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by Developer pursuant to Section 4.01 hereof shall increase proportionately.

(c) Disbursement of City Funds. The City shall disburse the loan funds to the Developer in two installments. Each installment shall be 50% of the Guaranteed Maximum Price. The first installment shall be made upon request of the Developer when the Project is 50% complete. The second installment shall be made upon request of the Developer after the Infrastructure Component Completion Certificate is issued. The Developer shall request a disbursement by submitting a Requisition Form, substantially in the form attached hereto as Exhibit L, to DPD. The City shall not make any disbursement to the Developer without compliance with the requirements in Section 4.07 hereafter.

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Prior Expenditures. Only those expenditures made by 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. Prior Expenditures made for items other than TIF-Funded Infrastructure Components shall not be reimbursed to Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by Developer pursuant to Section 4.01 hereof.

(b) Allocation Among Line Items. Disbursements for expenditures related to Infrastructure Components 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 \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of DPD.

4.06 Cost Overruns If the aggregate cost of the Infrastructure Components exceeds City Funds available pursuant to Section 4.03 hereof, 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 Infrastructure Components in excess of City Funds and of completing the Project.

4.07 Preconditions of Disbursement. Prior to each disbursement of City Funds hereunder, Developer shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by 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 cost of an acquisition or the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

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

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

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

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

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

(g) the Project is In Balance. The Project shall be deemed to be in balance ("In Balance") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "Available Project Funds" as used herein shall mean: (i) the undisbursed City Funds; (ii) the

undisbursed Lender Financing, if any; (iii) the undisbursed Equity; and (iv) any other amounts deposited by Developer pursuant to this Agreement. Developer hereby agrees that, if the Project is not In Balance, Developer shall, within 10 days after a written request by the City, make available in a manner acceptable to the City, cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The City shall have the right, in its discretion, to require 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 Developer. In addition, 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, and/or this Agreement.

4.08 Conditional Loan of City Funds.

(a) The City Funds being provided hereunder are being loaned to Developer subject to the Developer's compliance with the provisions of this Agreement (the "Loan"). As a condition of receipt of the Loan, Developer shall execute and deliver the Developer Note in the original principal amount of the City Funds that Developer requests in the Requisition Form, together with the Recapture Mortgage.

(b) The Loan shall be for an amount not to exceed \$2,547,600 at an interest rate of .0167% compounded monthly (2% APR). The term of the Loan shall not exceed ten years (the "Loan Term"), amortized over thirty years. Developer shall make yearly payments of \$112,997.16 for the duration of the Loan Term, commencing on the first day of the thirteenth month following the earlier of the issuance of the Infrastructure Component Completion Certificate or December 31, 2022. The remaining balance of the Loan, along with any accrued interest, shall be due at the end of the Loan Term.

(c) Developer shall notify the City of any changes in the ownership interests of Developer. Any new equity investor (i.e., other than an equity investor at the time of the commencement of the Term of the Agreement) that will acquire 7.5% or more of the Developer will be subject to the City's prior written approval which approval shall not unreasonably be withheld, conditioned or delayed. Failure to provide such notice or receive such approval shall be an Event of Default. All changes in ownership interest must take effect (i) on or after the first business day in January and (ii) on or before the first business day in April in each calendar year (or portion thereof) during the Term of the Agreement; provided that DPD may consent to one or more changes in ownership after the first business day in April which consent shall be in its sole discretion.

(d) If a Capital Event occurs, Developer agrees to pay and remit to the City an amount equal to the outstanding Principal balance of the Loan, as well as accrued and unpaid interest, if any. There shall be no applicable cure period for Capital Events. The City shall have the right to immediately accelerate payment of the Loan, including all accrued and unpaid interest.

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. 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. Developer has submitted to CDOT, and CDOT has approved, the Scope Drawings and Plans and Specifications accordance with the provisions of Section 3.02 hereof.

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

5.04 [intentionally omitted]

5.05 Acquisition and Title. On the Closing Date, Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing Developer 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. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. Developer has provided to DPD, on or prior to the Closing Date, documentation related to the purchase of the Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DPD's satisfaction, by the Title Policy and any endorsements thereto.

5.06 Evidence of Clean Title. Developer, at its own expense, has provided the City with searches as indicated in the chart below under Developer's name showing no liens against Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens:

Jurisdiction	Searches
Secretary of State	UCC, Federal tax
Cook County Recorder	UCC, Fixtures, Federal tax, State tax, Memoranda of judgments
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

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

5.08 Insurance. 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 Developer's Counsel. On the Closing Date, 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 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 were obtained by Developer from its general corporate counsel.

5.10 Evidence of Prior Expenditures. 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. Developer has provided Financial Statements to DPD for its most recent fiscal year, and audited or unaudited interim financial statements.

5.12 Documentation; Employment Plan. The Developer has provided documentation to HED, satisfactory in form and substance to HED, with respect to current employment matters in connection with the construction or rehabilitation work on the Project, including the reports described in Section 8.07.

5.13 Environmental. Developer has provided DPD with copies of that certain phase I environmental audit completed with respect to the Property. 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. Developer has provided a copy of its Articles of Organization containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and all other states in which 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.

Developer has provided to the City an EDS, dated as of the Closing Date, which is incorporated by reference, and Developer further will provide any other affidavits or certifications as may be required by federal, state or local law in the award of public contracts, all of which affidavits or certifications are incorporated by reference. Notwithstanding acceptance by the City of the EDS, failure of the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Developer and any other parties required by this Section 5.14 to complete an EDS must promptly update their EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate, including changes in ownership and changes in disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, and failure to promptly provide the updated EDS(s) to the City will constitute an event of default under this Agreement.

5.15 Litigation. Developer has provided to Corporation Counsel and DPD, a description of all pending or threatened litigation or administrative proceedings involving Developer, specifying, 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) Prior to the start of the Term of the Agreement, the Developer selected Walsh Construction Company as the General Contractor for the Project. If for any reason a new General Contractor must be selected during the Term of the Agreement, then, except as set forth in Section 6.01(b) below, prior to entering into an agreement with a new General Contractor or any subcontractor for construction of the Project, Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with, the City of Chicago, and shall submit all bids received to DPD for its inspection and written approval. The Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner. If Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the Project, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. Developer shall submit copies of the Construction Contract to DPD in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the Infrastructure Components shall be provided to DPD within five (5) business days of the execution thereof. 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 Project until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

(b) If, prior to entering into an agreement with a new General Contractor for construction of the Project, Developer does not solicit bids pursuant to Section 6.01(a) hereof, then the fee of the new General Contractor proposed to be paid out of City Funds shall not exceed 10% of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of Section 6.01(a) shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

6.02 Construction Contract. Prior to the execution thereof, Developer shall deliver to DPD a copy of the proposed Construction Contract with Walsh Construction Company, or any other General Contractor selected to handle the Project in accordance with Section 6.01 above, for DPD's prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. Within ten (10) business days after execution of such contract by Developer, the General Contractor and any other parties thereto, Developer shall deliver to DPD and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

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

6.04 Employment Opportunity. Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Section 10 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 Infrastructure Components shall be provided to DPD within five (5) business days of the execution thereof.

SECTION 7. COMPLETION OF CONSTRUCTION

7.01 Infrastructure Component Completion Certificate.

Upon completion of the Infrastructure Components as identified on the Project Budget in accordance with the terms of this Agreement, and upon the Developer's written request, DPD shall issue to the Developer the Infrastructure Component Completion Certificate set forth below in recordable form. The Infrastructure Component Completion Certificate shall not be issued unless DPD is satisfied that the Developer has fulfilled all of the following obligations that pertain to the Infrastructure Component Completion Certificate:

(a) General Conditions applicable to the Infrastructure Component Completion Certificate

(i) The City's Monitoring and Compliance Unit has verified that, at the time the Infrastructure Component Completion Certificate is issued, the Developer is in full compliance as determined on a Project-wide basis, with City requirements set forth in Section 10.01, Section 10.03 (M/WBE) and Section 8.09 (Prevailing Wage) with respect to construction of the Project.

(ii) The Developer has submitted to DPD adequate documentation of Project Costs incurred and paid by Developer for the Infrastructure Components equal to or exceeding the Guaranteed Maximum Price.

(iii) There exists neither an Event of Default (after any applicable cure period) which is continuing nor a condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default.

(iv) Certification by CDOT or the corresponding public authority that the Infrastructure Components have been completed and built in accordance with Approved Plans and Specifications and the Planned Development.

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

7.02 Effect of Issuance of Certificate; Continuing Obligations. Those covenants specifically described at Sections 8.02 (Covenant to Redevelop), 8.19 (Real Estate Provisions), and 8.21 (Annual Compliance Report) 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 Infrastructure Component Completion Certificate. The other executory terms of this Agreement that remain after the issuance of an Infrastructure Component Completion Certificate shall be binding upon the Developer or a permitted assignee of Developer who, pursuant to Section 18.14 of this Agreement, has contracted to take an assignment of Developer's rights under this Agreement and assume Developer's liabilities hereunder.

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

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

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

SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF DEVELOPER.

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

- (a) Developer is a Delaware limited liability company 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;
- (b) Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;
- (c) the execution, delivery and performance by Developer of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its Articles of Incorporation or operating agreement as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which Developer is now a party or by which Developer is now or may become bound;

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, Developer shall acquire and 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 and non-governmental charges that Developer is contesting in good faith pursuant to Section 8.15 hereof)

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

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

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

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

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

(j) prior to the issuance of the Infrastructure Component Completion Certificate, if it would materially adversely affect Developer's ability to perform its obligations under this Agreement, Developer shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation unless authorized by an ordinance duly adopted by the City Council; (2) subject to Section 18.14 hereof, sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business unless authorized by an ordinance duly adopted by the City Council; (3) enter into any transaction outside the ordinary course of Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity (except as required in connection with Lender Financing or tax credit equity investment for the Project), or (5) enter into any transaction that would cause a material and detrimental change to Developer's financial condition;

(k) Developer has not incurred, and, prior to the issuance of Infrastructure Component Completion Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget;

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

(m) neither Developer nor any affiliate of 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.

(n) Developer understands that (i) the City Funds are limited obligations of the City; (ii) the City Funds do not constitute indebtedness of the City within the meaning of any constitutional or statutory provision or limitation; (iii) Developer will have no right to compel the exercise of any taxing power of the City for payment of the City Funds; and (iv) the City Funds do not and will not represent or constitute a general obligation or a pledge of the faith and credit of the City, the State of Illinois or any political subdivision thereof;

(o) Developer has sufficient knowledge and experience in financial and business matters, including municipal projects and revenues of the kind represented by the City Funds, and has been supplied with access to information to be able to evaluate the risks associated with the receipt of City Funds;

(p) Intentionally Omitted;

(q) Developer understands it may not sell, assign, pledge or otherwise transfer its interest in this Agreement or City Funds in whole or in part except in accordance with the terms of Section 18.21 of this Agreement, and, to the fullest extent permitted by law, agrees to indemnify the City for any losses, claims, damages or expenses relating to or based upon any sale, assignment, pledge or transfer of City Funds in violation of this Agreement; and

(r) Developer acknowledges that with respect to City Funds, the City has no obligation to provide any continuing disclosure to the Electronic Municipal Market Access System maintained by the Municipal Securities Rulemaking Board, to any holder of a note relating to City Funds or any other person under Rule 15c2-12 of the Commission promulgated under the Securities Exchange Act of 1934 or otherwise, and shall have no liability with respect thereto.

(s) Developer agrees that Developer, any person or entity who directly or indirectly has an ownership or beneficial interest in Developer of more than 7.5 percent ("Owners"), spouses

and domestic partners of such Owners, Developer's contractors (i.e., any person or entity in direct contractual privity with Developer regarding the subject matter of this Agreement) ("Contractors"), any person or entity who directly or indirectly has an ownership or beneficial interest in any Contractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (Developer and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to their political fundraising committee (i) after execution of this Agreement by Developer, (ii) while this Agreement or any Other Contract (as defined below) is executory, (iii) during the term of this Agreement or any Other Contract between Developer and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

Developer represents and warrants that from the later of (i) May 16, 2011, or (ii) the date the City approached the Developer or the date the Developer approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to their political fundraising committee.

Developer agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) Bundle or solicit others to bundle contributions to the Mayor or to their political fundraising committee.

Developer agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Developer agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted unless the City, in its sole discretion, elects to grant such an opportunity to cure. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Developer intentionally violates this provision or Mayoral Executive Order No. 2011-4 prior to the closing of this Agreement, the City may elect to decline to close the transaction contemplated by this Agreement.

For purposes of this provision:

"Bundle" means to collect contributions from more than one source which is then delivered by one person to the Mayor or to their political fundraising committee.

"Other Contract" means any other agreement with the City of Chicago to which Developer is a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code; (ii) entered

into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the City Council of the City of Chicago.

“Contribution” means a “political contribution” as defined in Chapter 2-156 of the Municipal Code, as amended.

Individuals are “Domestic Partners” if they satisfy the following criteria:

- (A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two of the following four conditions exist for the partners:
 - 1. The partners have been residing together for at least 12 months.
 - 2. The partners have common or joint ownership of a residence.
 - 3. The partners have at least two of the following arrangements:
 - a. joint ownership of a motor vehicle;
 - b. a joint credit account;
 - c. a joint checking account;
 - d. a lease for a residence identifying both domestic partners as tenants.
 - 4. Each partner identifies the other partner as a primary beneficiary in a will.

“Political fundraising committee” means a “political fundraising committee” as defined in Chapter 2-156 of the Municipal Code, as amended.

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 Developer's receipt of all required building permits and governmental approvals, Developer shall proceed with the Project in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, 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 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 the end of the Term of the Agreement.

8.03 Redevelopment Plan. Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan, which is hereby incorporated by reference into this Agreement.

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

8.05 [intentionally omitted].

8.06 Warranty. Following the issuance of an Infrastructure Component Completion Certificate, the Developer will provide the City with a warranty against defective materials and workmanship with respect to such Infrastructure Component for a term of one year (the "Warranty Period"). Any defects identified during the Warranty Period must be repaired and replaced to the satisfaction of the City at the Developer's expense. Any such repair or replacement shall have a Warranty Period if one year from said repair or replacement date.

8.07 Employment Opportunity. 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. 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 when an Infrastructure Component is 25%, 50%, 75% and 100% completed (based on the amount of expenditures incurred in relation to the Project Budget). If any such reports indicate a shortfall in compliance, Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which Developer shall correct any shortfall.

8.08 Employment Profile. Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DPD, from time to time, statements of its employment profile upon DPD's request.

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

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

8.11 Conflict of Interest. Pursuant to Section 5/11-74.4-4(n) of the Act, Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in Developer's business, the Property or any other property in the Redevelopment Area.

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

8.13 Intentionally Omitted.

8.14 Insurance. 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, 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, 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. 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.** 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 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. Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities or perform any material obligations of Developer to any other person or entity. Developer shall immediately notify DPD of any and all events or actions which may materially affect Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

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

8.18 Recording and Filing. 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. Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, 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. The covenants set forth in this Section 8.19 shall run with the land and be binding upon any transferee for the Term of the Agreement.

(a) Governmental Charges.

(i) Payment of Governmental Charges. Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon Developer, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon 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 Developer, the Property or the Project including but not limited to real estate taxes.

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

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

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

(b) Developer's Failure To Pay Or Discharge Lien. If Developer fails to pay any Governmental Charge or to obtain discharge of the same, Developer shall advise DPD thereof in writing,

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

(c) Intentionally Omitted.

8.20 Annual Report(s). Beginning with the issuance of the Infrastructure Component Completion Certificate and continuing throughout the Term of the Agreement, Developer shall submit to DPD the Annual Compliance Report within 60 days after the end of the calendar year to which the Annual Compliance Report relates. Failure by Developer to submit the Annual Compliance Report shall constitute an Event of Default under Section 15.01 hereof, without notice or opportunity to cure pursuant to Section 15.03 hereof. The covenants set forth in this Section 8.21 shall run with the land and be binding upon any transferee for the Term of the Agreement.

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

8.22 [intentionally omitted]

8.23. FOIA and Local Records Act Compliance.

(a) FOIA. The Developer acknowledges that the City is subject to the Illinois Freedom of Information Act, 5 ILCS 140/1 et. seq., as amended ("FOIA"). The FOIA requires the City to produce records (very broadly defined in FOIA) in response to a FOIA request in a very short period of time, unless the records requested are exempt under the FOIA. If the Developer receives a request from the City to produce records within the scope of FOIA, then the Developer covenants to comply with such request within 48 hours of the date of such request. Failure by the Developer to timely comply with such request shall be an Event of Default.

(b) Exempt Information. Documents that the Developer submits to the City under Section 8.21, (Annual Compliance Report) or otherwise during the Term of the Agreement that contain trade secrets and commercial or financial information may be exempt if disclosure would result in competitive harm. However, for documents submitted by the Developer to be treated as a trade secret or information that would cause competitive harm, FOIA requires that Developer mark any such documents as "proprietary, privileged or confidential." If the Developer marks a

document as "proprietary, privileged and confidential", then DPD will evaluate whether such document may be withheld under the FOIA. DPD, in its discretion, will determine whether a document will be exempted from disclosure, and that determination is subject to review by the Illinois Attorney General's Office and/or the courts.

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

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

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

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, 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, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

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

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

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

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 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.

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

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

Developer, the General Contractor and each subcontractor shall provide full access to their employment records to the Chief Procurement Officer, the Commissioner of DPD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. 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 Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that 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 (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 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 Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to Developer pursuant to Section 2-92-250 of the Municipal Code may be withheld by the City pending the Chief Procurement Officer's determination as to whether Developer must surrender damages as provided in this paragraph.

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

Developer shall cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Project.

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

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code (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 26 percent by MBEs.
- (2) At least six percent by WBEs.

(b) For purposes of this Section 10.03 only, Developer (and any party to whom a contract is let by Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by 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, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code, Developer's MBE/WBE commitment may be achieved in part by Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by 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 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 Developer's MBE/WBE commitment as described in this Section 10.03. In accordance with Section 2-92-730, Municipal Code, Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DPD.

(d) Developer shall deliver quarterly 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 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 Developer's compliance with this MBE/WBE commitment. 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 Developer, on five Business Days' notice, to allow the City to review 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, 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, as applicable.

(f) Any reduction or waiver of 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, as applicable.

(g) Prior to the commencement of the Project, Developer shall be required to meet with the City's monitoring staff with regard to 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, 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, 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 Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to Developer to halt the Project, (2) withhold any further payment of any City Funds to Developer or the General Contractor, or (3) seek any other remedies against Developer available at law or in equity.

SECTION 11. ENVIRONMENTAL MATTERS

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

Without limiting any other provisions hereof, Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Property or (B) any other real property in which Developer, or any person directly or indirectly controlling, controlled by or under common control with Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by 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 Developer or any of its Affiliates under any Environmental Laws relating to the Property.

SECTION 12. INSURANCE

Developer must provide and maintain, at Developer's own expense, or cause to be provided and maintained during the term of this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to execution and delivery of this Agreement.

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (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 must 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.

(iii) All Risk Property

All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(b) Construction. Prior to the construction of any portion of the Project, Developer will cause its architects, contractors, subcontractors, project managers and other parties constructing the Project to procure and maintain the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (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 must include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, 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 (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Automobile Liability Insurance with limits of not less than \$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 basis.

(iv) Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Developer must provide cause to be provided with respect to the operations that Contractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have 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) All Risk /Builders Risk

When Developer undertakes any construction, including improvements, betterments, and/or repairs, Developer must 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 project. The City of Chicago is to be named as an additional insured and loss payee/mortgagee if applicable.

(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 must be maintained with limits of not less than \$1,000,000. Coverage must include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers

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

(viii) Contractors Pollution Liability

When any remediation work is performed which may cause a pollution exposure, Developer must cause remediation contractor to provide Contractor Pollution Liability covering bodily injury, property damage and other losses caused by pollution conditions that arise from the contract scope of work with limits of not less than \$1,000,000 per occurrence. Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. 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. The City of Chicago is to be named as an additional insured.

(c) Post Construction:

(i) All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(d) Other Requirements:

Developer must furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, 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. Developer must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to closing. 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 Developer is not a waiver by the City of any requirements for Developer to obtain

and maintain the specified coverages. Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve 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 stop work and/or terminate agreement until proper evidence of insurance is provided.

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

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Developer and Contractors.

Developer hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Developer in no way limit Developer's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by Developer under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

If Developer is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

Developer must require Contractor and subcontractors to provide the insurance required herein, or Developer may provide the coverages for Contractor and subcontractors. All Contractors and subcontractors are subject to the same insurance requirements of Developer unless otherwise specified in this Agreement.

If Developer, any Contractor or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change 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) Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or
- (ii) Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Infrastructure Components or any other Project improvement; or
- (iii) the existence of any material misrepresentation or omission in this Agreement, any official statement, limited offering memorandum or private placement memorandum or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by Developer or any Affiliate Developer or any agents, employees, contractors or persons acting under the control or at the request of Developer or any Affiliate of Developer; or
- (iv) 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. 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 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 Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at Developer's expense. Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by Developer with respect to the Project.

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

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 Developer hereunder:

- (a) the failure of Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of Developer under this Agreement or any related agreement;
- (b) the failure of Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of Developer under any other agreement with any person or entity if such failure may have a material adverse effect on Developer's business, property, assets, operations or condition, financial or otherwise;
- (c) the making or furnishing by Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;
- (d) 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 Developer or for the liquidation or reorganization of Developer, or alleging that Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of 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 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 Developer, for any substantial part of Developer's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;
- (g) the entry of any judgment or order against Developer which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;
- (h) the occurrence of an event of default under the Lender Financing, which default is not cured within any applicable cure period;
- (i) [intentionally omitted]

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

(k) prior to the end of the Term of the Agreement, without the prior written consent of the City, any sale, transfer, conveyance, lease or other disposition of all or substantially all of Developer's assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business or as otherwise expressly permitted by this Agreement;

(l) The failure of Developer, or the failure by any party that is a Controlling Person (defined in Section 1-23-010 of the Municipal Code) with respect to Developer, to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code; such failure shall render this Agreement voidable or subject to termination, at the option of the Chief Procurement Officer; or

(m) prior to the expiration of the Term of the Agreement, the occurrence of a Capital Event.

For purposes of Sections 15.01(i) and 15.01(j) hereof, a person with a material interest in Developer shall be one owning in excess of ten (10%) of Developer's membership interests.

15.02 Remedies. Upon the occurrence of an Event of Default other than a Capital Event, the City may terminate this Agreement and any other agreements to which the City and Developer are or shall be parties, suspend disbursement of City Funds, place a lien on the Project in the amount of City Funds paid, seek reimbursement of any City Funds paid, and accelerate the Loan 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. Upon the occurrence of an Event of Default under Section 15.01(j), the Developer shall have the remedy set forth in Section 8.01(q).

Upon the occurrence of an Event of Default for a Capital Event, Developer shall pay and remit to the City an amount equal to the outstanding Principal balance of the Loan plus accrued interest immediately upon demand from the City. In addition, 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

15.03 Curative Period. In the event Developer shall fail to perform a monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless Developer has failed to perform such 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 Developer shall fail to perform a non-monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless Developer has failed

to 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, Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit G hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that 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 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 Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to 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 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 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 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 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 Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "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 Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of Developer which accrued prior to the time such party succeeded to the interest of Developer under this Agreement, in which case Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of 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 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, or (d) registered or certified mail, return receipt requested.

If to the City:	If to Developer:
City of Chicago Department of Planning and Development 121 North LaSalle Street, Room 1000 Chicago, Illinois 60602 Attention: Commissioner	Blue Star Properties 600 West Van Buren Street, Suite 1000 Chicago, Illinois 60607 Attention: Tyler Quast
With Copies To: City of Chicago Department of Law 121 North LaSalle Street, Room 600 Chicago, Illinois 60602 Attention: Finance and Economic Development Division	With Copies To: DLA Piper LLP (US) 444 West Lake Street, Suite 900 Chicago, Illinois 60606 Attention: Katherine C. Jahnke Dale, Esq.

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 dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

SECTION 18. MISCELLANEOUS

18.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended 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 the Redevelopment Plan 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 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 Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

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

18.05 Waiver. Waiver by the City or 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 Developer in writing. 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 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.

18.09 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.

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

18.11 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.

18.12 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.

18.13 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.

18.14 Assignment. 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. Any successor in interest to 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 8.28 (Survival of Covenants) hereof, for the Term of the Agreement. Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

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

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

18.17 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 *et seq.*), if Developer is required to provide notice under the WARN Act, 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 Developer has locations in the State. Failure by 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.

18.18 Venue and Consent to Jurisdiction. If there is a lawsuit under this Agreement, each party may 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.

18.19 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.

18.20 Business Relationships. Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code, (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 that creates a "Financial Interest" (as defined in Section 2-156-010 of the Municipal Code)(a "Financial Interest"), 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 that creates a Financial Interest, 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 that creates a Financial Interest, 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. 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.]

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.

1357 Property Owner, LLC, a Delaware limited liability company

By: 1357 Elston JV, LLC, its manager



A handwritten signature in black ink, appearing to read "Craig Golden". It is written over a horizontal line and includes a stylized flourish at the end.

By: Craig Golden
Its: Managing Member

CITY OF CHICAGO

By: _____

Maurice D. Cox,
Commissioner of Planning and Development

By: _____

Gia Biagi,
Commissioner of Transportation

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.

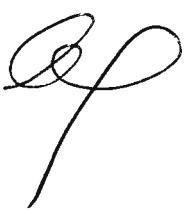
1357 Property Owner, LLC, a Delaware limited liability company

By: 1357 Elston JV, LLC, its manager

By: Craig Golden
Its: Managing Member

CITY OF CHICAGO

By: Maurice D. Cox,
Commissioner of Planning and Development



By: _____
Gia Biagi,
Commissioner of Transportation

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.

1357 Property Owner, LLC, a Delaware limited liability company

By: 1357 Elston JV, LLC, its manager

By: Craig Golden
Its: Managing Member

CITY OF CHICAGO

By: _____
Maurice D. Cox,
Commissioner of Planning and Development

By: _____
Gia Biagi,
Commissioner of Transportation



STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Tyler Quast, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Craig Golden, personally known to me to be the managing member of 1357 Elston JV, a Delaware limited liability company, the managing member of 1357 Property Owner LLC, a Delaware limited liability company (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 Advisors of Developer, as his/her free and voluntary act and as the free and voluntary act of Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 19th day of JULY, 2022.



Tyler
Notary Public

My Commission Expires 1/21/25

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

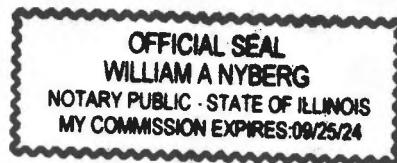
I, WILLIAM NYBERG, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Maurice D. Cox, personally known to me to be the Commissioner of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed 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 23rd day of July, 2022.

William Nyberg
Notary Public

My Commission Expires 09/25/24

(SEAL)



STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Rachel Decorvo, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Gia Biagi, personally known to me to be the Commissioner of Transportation 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 28th day of July, 2022.

Rachel Decorvo
Notary Public

My Commission Expires 3/14/24



EXHIBIT A
REDEVELOPMENT AREA

Amended North Branch (South) TIF

THAT PART OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN AND THAT PART OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE CITY OF CHICAGO, COOK COUNTY ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST LINE OF HALSTED STREET WITH THE NORTHERLY SEAWALL OF THE NORTH BRANCH OF THE CHICAGO RIVER WHICH IS LOCATED IN THE EAST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 5;

THENCE NORTHWESTERLY ALONG THE NORTHERLY SEAWALL OF THE NORTH BRANCH OF THE CHICAGO RIVER PASSING THROUGH THE WEST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 5 AND INTERSECTING WITH A POINT BEING THE NORTHWEST CORNER OF LOT 4 IN BLOCK 50 IN ELSTON'S ADDITION TO CHICAGO IN THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF SAID SECTION 5;

THENCE EAST ALONG THE NORTH LINE OF LOT 4 ALSO BEING THE SOUTH LINE OF FORMER LOT 3 IN BLOCK 50 IN ELSTON'S ADDITION TO CHICAGO AFORESAID TO THE SOUTHEAST CORNER OF SAID LOT 3 ALSO BEING THE WEST DOCK LINE OF THE CHICAGO RIVER AS BUILT PER SURVEY FROM 1937;

THENCE NORTH AND EASTERLY ALONG THE WEST DOCK LINE OF THE CHICAGO RIVER AS BUILT PER SURVEY FROM 1937 TO A POINT OF INTERSECTION WITH THE NORTHERLY EXTENSION OF THE CENTER LINE OF CHERRY AVENUE;

THENCE EASTERLY AND SOUTHERLY ALONG THE WESTERLY SEAWALL OF THE NORTH BRANCH OF THE CANAL BASIN TO THE NORTHERLY LINE OF EVERGREEN AVENUE EXTENDED WESTERLY IN THE EAST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF SAID SECTION 5;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF EVERGREEN AVENUE EXTENDED WESTERLY TO THE EASTERLY RIGHT OF WAY LINE OF KINGSBURY STREET;

THENCE NORtherly ALONG THE EASTERLY RIGHT OF WAY LINE OF KINGSBURY STREET TO A POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 4 IN BLOCK 1 IN THE SUBDIVISION OF LOTS 1 AND 2 IN BLOCK 8 OF SHEFFIELD'S ADDITION TO CHICAGO

BEING A SUBDIVISION IN SECTIONS 29, 31, 32 AND 33, TOWNSHIP 40 NORTH,
RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN;
THENCE WESTERLY ALONG THE EASTERLY EXTENSION OF THE NORTH
LINE OF LOT 4 IN BLOCK 1 IN THE SUBDIVISION OF LOTS 1 AND 2 IN BLOCK
8 OF SHEFFIELD'S ADDITION TO CHICAGO AFORESAID TO THE EAST RIGHT
OF WAY LINE OF THE CHICAGO AND PACIFIC RAILROAD (NOW THE
CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD);

THENCE SOUTH ALONG THE EAST RIGHT OF WAY LINE OF SAID RAILROAD
TO THE NORTH LINE OF LOT 1 IN BLOCK 1 IN THE SUBDIVISION OF LOTS 1
AND 2 IN BLOCK 8 OF SHEFFIELD'S ADDITION TO CHICAGO AFORESAID;

THENCE WEST ALONG THE NORTH LINE OF SAID LOT 1 TO A POINT OF
INTERSECTION WITH THE EAST LINE OF A 20 FOOT STRIP OF LAND
CONVEYED TO THE CHICAGO AND PACIFIC RAILROAD BY DEED
RECORDED NOV. 25, 1872 AS DOC. 70276, SAID EAST LINE OF THE 20 FOOT
STRIP OF LAND BEING APPROXIMATELY 321.30 FEET WEST OF THE
SOUTHEAST CORNER OF LOT 1 IN BLOCK 1 IN THE SUBDIVISION OF LOTS 1
AND 2 IN BLOCK 8 OF SHEFFIELD'S ADDITION TO CHICAGO AFORESAID;

THENCE SOUTH ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE
OF A 20 FOOT STRIP OF LAND AFORESAID TO THE INTERSECTION WITH THE
SOUTH RIGHT OF WAY LINE OF NORTH AVENUE;

THENCE WEST ALONG THE SOUTH RIGHT OF WAY LINE OF NORTH
AVENUE TO A POINT OF INTERSECTION WITH THE SOUTHERLY EXTENSION
OF THE WESTERLY RIGHT OF WAY LINE OF BESLEY COURT;

THENCE NORTHWESTERLY ALONG THE SOUTHERLY EXTENSION AND THE
WESTERLY RIGHT OF WAY LINE OF BESLEY COURT TO A POINT OF
INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF WABANSIA
AVENUE;

THENCE NORTHEASTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE
OF WABANSIA AVENUE TO THE POINT OF INTERSECTION WITH THE
WESTERLY RIGHT OF WAY LINE OF ELSTON AVENUE;

THENCE NORTHWESTERLY ALONG THE WESTERLY RIGHT OF WAY LINE
OF ELSTON AVENUE TO THE POINT OF INTERSECTION WITH THE
WESTERLY EXTENSION OF THE NORTHERLY RIGHT OF WAY LINE OF
WILLOW STREET;

THENCE EASTERLY ALONG THE WESTERLY EXTENSION AND THE
NORTHERLY RIGHT OF WAY LINE OF WILLOW STREET TO THE SOUTHEAST
CORNER OF LOT 14 IN BLOCK 17 IN SUBDIVISION OF BLOCKS 17, 18, 20, 21
(EXCEPT LOTS 1, 6 & 12 IN SAID BLOCK 21), 23, 28, 29, 30, 31, 32 (EXCEPT

LOTS 1, 2, 3, 6 & 7), 33, 38, 39, 40, 41 OF SHEFFIELD'S ADDITION TO CHICAGO AFORESAID;

THENCE NORTHERLY ALONG THE EASTERLY LINE OF LOT 14 IN BLOCK 17 AFORESAID TO AN ANGLE POINT ON SAID EASTERLY LINE OF LOT 14;

THENCE CONTINUING NORTHERLY ALONG THE EASTERLY LINE TO THE NORTHEAST CORNER OF SAID LOT 14 IN BLOCK 17 ALSO BEING THE SOUTHWESTERLY LINE OF THE NORTH BRANCH OF THE CHICAGO RIVER;

THENCE WESTERLY ALONG THE SOUTHWESTERLY LINE OF THE NORTH BRANCH OF THE CHICAGO RIVER TO THE SOUTHEASTERLY CORNER OF LOT 5 IN BLOCK 17 IN SUBDIVISION OF BLOCKS 17, 18, 20, 21 (EXCEPT LOTS 1, 6 & 12 IN SAID BLOCK 21), 23, 28, 29, 30, 31, 32 (EXCEPT LOTS 1, 2, 3, 6 & 7), 33, 38, 39, 40, 41 OF SHEFFIELD'S ADDITION TO CHICAGO AFORESAID;

THENCE SOUTHWESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 5 AND ITS WESTERLY EXTENSION TO THE WESTERLY RIGHT OF WAY LINE OF ELSTON AVENUE;

THENCE NORTHWESTERLY ALONG THE WESTERLY RIGHT OF WAY LINE OF ELSTON AVENUE TO A POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF CORTLAND AVENUE;

THENCE WESTERLY ALONG THE SOUTHERLY RIGHT OF WAY LINE OF CORTLAND AVENUE TO A POINT OF INTERSECTION WITH THE EASTERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY;

THENCE SOUTHERLY ALONG THE EASTERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY TO THE SOUTH LINE OF DIVISION STREET;

THENCE WEST ALONG THE SOUTH LINE OF DIVISION STREET TO THE WEST LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY;

THENCE SOUTHERLY ALONG THE WEST LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY TO ITS INTERSECTION WITH THE NORTHERLY EXTENSION OF THE WEST RIGHT OF WAY LINE OF THROOP STREET;

THENCE SOUTH ALONG THE NORTHERLY EXTENSION AND THE WEST RIGHT OF WAY LINE OF THROOP STREET TO THE INTERSECTION WITH THE WESTERLY EXTENSION OF THE SOUTH RIGHT OF WAY LINE OF CORTEZ STREET;

THENCE EAST ALONG THE WESTERLY EXTENSION AND THE SOUTH RIGHT OF WAY LINE OF CORTEZ STREET TO THE EASTERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY;

THENCE SOUTHERLY ALONG THE EASTERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY TO THE SOUTH LINE OF A 22 FOOT WIDE PUBLIC ALLEY IN BLOCK 17 IN ELSTON'S ADDITION TO CHICAGO AFORESAID;

THENCE EAST ALONG THE SOUTH LINE OF SAID PUBLIC ALLEY IN BLOCK 17 IN ELSTON'S ADDITION TO CHICAGO TO A POINT OF INTERSECTION WITH THE WEST LINE OF A PUBLIC ALLEY LYING WEST OF ELSTON AVENUE;

THENCE SOUTH ALONG THE WEST LINE OF THE PUBLIC ALLEY LYING WEST OF ELSTON AVENUE TO THE CENTER LINE OF AUGUSTA BOULEVARD;

THENCE EAST ALONG THE CENTER LINE OF AUGUSTA BOULEVARD TO THE NORTHERLY EXTENSION OF THE WESTERLY RIGHT OF WAY LINE OF ELSTON AVENUE;

THENCE SOUTH ALONG THE NORTHERLY EXTENSION AND THE WEST RIGHT OF WAY LINE OF ELSTON AVENUE TO THE NORTHERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY TO THE POINT OF INTERSECTION WITH THE NORTHERLY EXTENSION OF THE WEST RIGHT OF WAY LINE OF MAY STREET EXTENDED NORTH;

THENCE SOUTH ALONG THE NORTHERLY EXTENSION AND THE WEST RIGHT OF WAY LINE OF MAY STREET TO THE SOUTH RIGHT OF WAY LINE OF FRY STREET;

THENCE EAST ALONG THE SOUTH RIGHT OF WAY LINE OF FRY STREET TO THE EAST RIGHT OF WAY LINE OF CARPENTER STREET;

THENCE NORTH ALONG THE NORTHERLY EXTENSION OF THE EAST RIGHT OF WAY LINE OF CARPENTER STREET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF OGDEN AVENUE;

THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY RIGHT OF WAY LINE OF OGDEN AVENUE TO THE NORTHERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF THE CHICAGO AND
NORTHWESTERN RAILROAD RIGHT OF WAY TO THE WEST RIGHT OF WAY
LINE OF HALSTED STREET;

THENCE NORTH ALONG THE WEST RIGHT OF WAY LINE OF HALSTED
STREET TO THE PLACE OF BEGINNING.

EXHIBIT B
PROPERTY

Legal Description:

LOTS 1 TO 10 IN BLOCK 25 IN ELSTON'S ADDITION TO CHICAGO IN SECTION 5,
TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT
THAT PART OF LOT 10 AFORESAID LYING SOUTH OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON EASTERLY LINE OF ELSTON AVENUE A DISTANCE
THEREON OF 530 FEET 7 1/4 INCHES SOUTHERLY FROM ITS INTERSECTION WITH THE
SOUTHERLY LINE OF BLACKHAWK STREET AND THAT EASTERLY RIGHT OF WAY
SOUTHERLY LINE OF BLACKHAWK STREET 273 FEET 11 INCHES TO EASTERLY LINE
OF BLOCK 25) IN COOK COUNTY, ILLINOIS.

KNOWN AS: 1357 N. ELSTON AVENUE, CHICAGO, ILLINOIS

PERMANENT INDEX NUMBER: 17-05-121-006-000

EXHIBIT C
TIF-FUNDED IMPROVEMENTS

TIF-Funded Improvements shall be those Infrastructure Components described in Recital D and constructed in accordance with the Project Budget attached as Exhibit H-1.*

*Notwithstanding the total of TIF-Funded Improvements or the amount of TIF-eligible costs, the assistance to be provided by the City shall not exceed \$2,547,600."

EXHIBIT E
CONSTRUCTION CONTRACT



Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

1357 Property Owner, LLC
600 West Van Buren Street, Suite 1000
Chicago, IL 60607

and the Contractor:

(Name, legal status, address and other information)

Walsh Construction Company II, LLC
929 West Adams Street
Chicago, IL 60607

for the following Project:

(Name, location and detailed description)

Morton Salt Redevelopment
Off-Site Roadway & Traffic Signal Improvements
1357 N Elston Avenue
Chicago, IL 60642

The Architect:

(Name, legal status, address and other information)

References to the "Architect" as used herein shall be deemed to refer to the following engineer:

V3 Companies, LTD.
7325 Janes Avenue
Woodridge, IL 60517

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 3 CONTRACT SUM
- 4 PAYMENTS
- 5 INSURANCE
- 6 GENERAL PROVISIONS
- 7 OWNER
- 8 CONTRACTOR
- 9 ARCHITECT
- 10 CHANGES IN THE WORK
- 11 TIME
- 12 PAYMENTS AND COMPLETION
- 13 PROTECTION OF PERSONS AND PROPERTY
- 14 CORRECTION OF WORK
- 15 MISCELLANEOUS PROVISIONS
- 16 TERMINATION OF THE CONTRACT
- 17 OTHER TERMS AND CONDITIONS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Architect, dated 7/16/2021 , and enumerated as follows:

Drawings: Reference Exhibit A – Contract Documents
Number **Title**

Date

Specifications: Reference Exhibit A
Section **Title**

Pages

- .3 addenda prepared by the Architect as follows: Reference Exhibit A
Number **Date**

Pages

Init.

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User Notes:

(1733964353)

- .4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and
- .5 other documents, if any, identified as follows:

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

Unless otherwise set forth below, the date of commencement shall be the date
(Paragraphs deleted)
the Owner issues Notice to Proceed.

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:
(Check the appropriate box and complete the necessary information.)

Not later than 120 calendar days from the date of on-site construction commencement.

By the following date:

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

One Million Seven Hundred Fifty Thousand Dollars and No Cents (\$ 1,750,000.00)

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:
(Itemize the Contract Sum among the major portions of the Work.)

Portion of the Work	Value
Blackhawk Improvements	\$410,000.00
North Magnolia Improvements	\$335,000.00
North Elston Improvements???	\$72,000.00
3-Way Traffic Light	\$294,000.00
Division & Elston Improvements	Not Included In This Contract
Addendum 01	\$206,000
Misc.Costs, GC's/GR's/Overhead/Profit	\$433,000

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:

(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:
(Identify each allowance.)

Item	Price
-------------	--------------

§ 3.5 Unit prices, if any, are as follows:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor's Applications for Payment certified by the Architect or Owner, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

(Insert below timing for payments and provisions for withholding retainage, if any.)

The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. The Owner shall pay the Contractor no later than forty-five (45) days after the Owner's of the Application for Payment with no retainage held.

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.

(Insert rate of interest agreed upon, if any.)

%

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

Reference Exhibit B – Insurance Requirements

(Paragraphs deleted)

§ 5.1.7 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits
----------	--------

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.

(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Architect may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Architect.

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work.

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 8.5 Warranty

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

§ 8.7 Permits, Fees and Notices

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.

§ 8.12 Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

ARTICLE 9 ARCHITECT

§ 9.1 NOT USED

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment (if requested by the Owner), the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect (if requested by the Owner) has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from the Contract Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.

§ 10.2 The Architect may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 12.2 Applications for Payment

§ 12.2.1 At least five days before the date established for each progress payment, the Contractor shall submit to the Architect or Owner an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

§ 12.3 Certificates for Payment

The Architect or Owner will, within five days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven

day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.4 Progress Payments

§ 12.4.1 After the Architect or Owner has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.5 Substantial Completion

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect or Owner and the Architect or Owner will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete, the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect or Owner will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

Exhibit A – Contract Documents

Exhibit B – Insurance Requirements

Exhibit C – Contract Clarifications and Assumptions

Exhibit D – Construction Schedule

Exhibit E – Morton Salt Outline of Terms and Conditions for TIF Funding Inclusions

This Agreement entered into as of the day and year first written above.

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

DocuSigned by:

Dave Deuter

Dec-17-2021 | 10:32 AM CST

8CE1AEB062124A6...

DocuSigned by:

Sean Walsh

Dec-17-2021 | 8:06 AM PST

ABC7590B4C38422...

OWNER (Signature)

David Deuter, Director of Construction

(Printed name and title)

CONTRACTOR (Signature)

Sean C. Walsh, President

(Printed name and title)

LICENSE NO.:

JURISDICTION:

DS
JPWNC

Init.

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User Notes:

(1733964353)

EXHIBIT A

CONTRACT DOCUMENTS

Drawings:

<u>Date</u>	<u>Sheet Number</u>	<u>Sheet Name</u>
7/16/2021	1	COVER SHEET
7/16/2021	2	GENERAL NOTES AND INDEX OF SHEETS
7/16/2021	3	GENERAL NOTES AND INDEX OF SHEETS
7/16/2021	4	MAINTENANCE OF TRAFFIC NOTES
7/16/2021	5	SUMMARY OF QUANTITIES (FOR INFORMATION ONLY)
7/16/2021	6	SUMMARY OF QUANTITIES (FOR INFORMATION ONLY)
7/16/2021	7	SUMMARY OF QUANTITIES (FOR INFORMATION ONLY)
7/16/2021	8	SUMMARY OF QUANTITIES (FOR INFORMATION ONLY)
7/16/2021	9	SUMMARY OF QUANTITIES (FOR INFORMATION ONLY)
7/16/2021	10	ALIGNMENT, TIES AND BENCHMARKS
7/16/2021	11	EXISTING TYPICAL SECTIONS
7/16/2021	12	PROPOSED TYPICAL SECTIONS
7/16/2021	13	EXISTING CONDITIONA AND PROPOSED IMPROVEMENTS PLAN
7/16/2021	14	EXISTING CONDITIONA AND PROPOSED IMPROVEMENTS PLAN
7/16/2021	15	PLAN AND PROFILE
7/16/2021	16	PLAN AND PROFILE
7/16/2021	17	ADA RAMP DETAILS
7/16/2021	18	ADA RAMP DETAILS
7/16/2021	19	DRAINAGE UTILITY AND EROSION CONTROL PLAN
7/16/2021	20	PAVEMENT MARKING AND SIGNAGE PLAN
7/16/2021	21	TRAFFIC SIGNAL CONTROL PLAN
7/16/2021	22	TRAFFIC CONTROL SIGNAL PLAN (FOR INFORMATON ONLY - WORK NIC)
7/16/2021	23	TRAFFIC SIGNAL DETAILS
7/16/2021	24	TRAFFIC SIGNAL DETAILS
7/16/2021	25	MORTON SALT CRASH WALL/GENERAL PLAN AND ELEVATION
7/16/2021	26	MORTON SALT CRASH WALL DETAILS
7/16/2021	27	CONSTRUCTION DETAILS
7/16/2021	28	CONSTRUCTION DETAILS
7/16/2021	29	CONSTRUCTION DETAILS
7/16/2021	30	CONSTRUCTION DETAILS
7/16/2021	32	CONSTRUCTION DETAILS
7/16/2021	33	CONSTRUCTION DETAILS
7/16/2021	34	IDOT STANDARD DRAWINGS
7/16/2021	35	IDOT STANDARD DRAWINGS
7/16/2021	36	IDOT STANDARD DRAWINGS
7/16/2021	37	IDOT STANDARD DRAWINGS

9/28/2021 Addendum 1 - BOE Lighting Palette 30' Davit Arm Poles

9/28/2021 Addendum 1 - Morton Salt Additional Pricing Markups Sheet 1 of 2

9/28/2021 Addendum 1 - Morton Salt Additional Pricing Markups Sheet 2 of 2

EXHIBIT B – INSURANCE REQUIREMENTS

During the term of the agreement the General Contractor will, at its own expense, have in effect the coverages listed below.

Commercial General Liability:

- Coverage should include premises operations, products and completed operations, broad form property damage, contractual liability, independent contractors, and personal and advertising injury with minimum limits of \$1,000,000 limit per occurrence for bodily injury and property damage; \$2,000,000 aggregate with defense outside the limits. Coverage must not include any XCU (Explosion, Collapse and Underground Property Damage Hazard) Exclusion. Any general aggregate limit must apply per project and must be unimpaired.
- The policy shall include all parties indicated below as additional insureds under ISO form #CG2010 or its equivalent for ongoing operations (ISO form #CG2033 or #CG2038 will also be accepted) and under ISO form #CG2037 or its equivalent for completed operations.
- The coverage provided by the additional insured endorsement shall be primary without right of contribution by any coverage carried by the identified additional insureds.
- The policy shall include a waiver of subrogation endorsement in favor of the additional insureds under ISO form #CG2404 (0509) or its equivalent.
- The policy shall contain a severability of interest clause for all additional insureds with no cross suits liability exclusion.
- Coverage shall not contain an exclusion for bodily injury or property damage after work is completed or is put to its intended use.

Workers Compensation:

- Workers compensation coverage: statutory limits required by all authorities having jurisdiction in locations in which General Contractor operates, and in which the work required by the contract awarded is performed.
- Employer's liability coverage:
 - ▲ \$500,000 Bodily injury by accident – each accident
 - ▲ \$500,000 Bodily injury by disease – each employee
 - ▲ \$500,000 Bodily injury by disease – policy limit
- The policy shall include a waiver of subrogation endorsement in favor of the identified parties under form #WC000313 or its equivalent.
- For work performed in Illinois, coverage must be included for Illinois Waiver of Kotecki Cap, if insurer can provide.

EXHIBIT B – INSURANCE REQUIREMENTS (CONT.)

Automobile Liability:

- Coverage for all owned, leased, hired and non-owned vehicles with a combined single limit of \$1,000,000 for bodily injury and property damage.
- The policy shall include the identified parties as additional insureds under ISO form #CA2048 or its equivalent.
- The coverage provided by the additional insured endorsement shall be primary without right of contribution by any coverage carried by the identified parties.
- The policy shall include a waiver of subrogation endorsement in favor of the additional insureds.

Umbrella Liability:

- Coverage excess of general liability, auto liability and employer's liability in an amount of at least \$5,000,000 per occurrence with defense outside the limit.
- The policy shall include the identified parties as additional insureds up to the full limit of the policy.
- The coverage provided by the additional insured endorsement shall be primary without right of contribution by any coverage carried by the additional insured.
- The policy shall include a waiver of subrogation endorsement in favor of the identified parties.

Tools and Equipment:

- The General Contractor shall be responsible for any loss or damage to any property owned by, or in control of, General Contractor, which is not incorporated into the work, including, without limitation, tools, equipment and materials.
- The General Contractor hereby waives all rights of subrogation for such loss or damage in favor of the parties identified as additional insureds and all other contractors working at the jobsite.

Architects, Engineers and Other Miscellaneous Professionals:

- Coverage for professional services rendered with limits of at least \$1,000,000. Any aggregate limit must be unimpaired.
- Any retroactive date or prior acts exclusion must predate both the date of this agreement and any earlier commencement of any services.

Pollution Liability:

- Contractors Pollution Liability coverage shall be maintained including third party liability, costs of cleanup, remediation and removal of such hazardous materials, including mold, and for the defense of any related legal action. Limits of liability shall be no less than \$1,000,000 each occurrence and \$1,000,000 aggregate.
- All entities to the contract must be named as additional insureds.

Conditions Applying to All Coverages:

- Any changes to the coverages required must be authorized in advance by the Owner and be documented in writing.
- The policies shall provide that 30 days prior written notice of cancellation be given to Owner, except 10 days prior notice shall be provided for cancellation for non-payment of premium.
- Certificates with copies of specified endorsements must be provided prior to the start of work and for renewal policies 10 days prior to the expiration date.
- With the exception of the professional liability and pollution liability coverages noted above, all liability policies for bodily injury and property damage shall be issued on the "occurrence" form.
-

EXHIBIT B – Insurance Requirements (Cont.)

- All coverages must be in a company approved to do business in the state and carrying a rating of at least A X by A.M. Best's. Coverages for subcontractors must have a carrier rating of at least A- VII by A.M. Best's.
- Owner reserves the right to increase or expand these requirements when it deems prudent.
- If any of the insurance required to be maintained by this contract is written with aggregate limits, General Contractor shall actively monitor all claims, incidents and occurrences that may affect such insurance to assure that the application of the aggregate limit will not have the practical effect of reducing the minimum amount of insurance coverage that is available on a per occurrence or per claim basis. If, at any time, the full minimum per occurrence or per claim limit is not available for the payment of claims, or Owner or General Contractor reasonably believes that such limits may not be available, General Contractor shall take immediate steps to increase the aggregate limits as necessary to provide such coverage.

Parties Identified as Additional Insured:

- 1357 Property Owner, LLC
- Blue Star Properties, Inc.
- Blue Star Salt Shed, LLC
- R2 Property Management, LLC
- R2 Development, LLC
- R2 Design Build, LLC
- R2 Companies, LLC
- CIBC Bank USA, an Illinois State-Chartered Bank

Certificate Holder:

- 1357 Property Owner, LLC 600 West Van Buren, Suite 1000 Chicago, IL 60607

Owner's address for notices;

Blue Star Properties,
600 W. Van Buren,
Suite 1000,
Chicago, IL 60607

R2 Companies, LLC,
1200 N. North Branch St.,
2nd Fl.,
Chicago, IL 60642



Exhibit C

Morton Salt Redevelopment

Off-Site Roadway & Traffic Signal Improvements

CONTRACT CLARIFICATIONS AND ASSUMPTIONS – 12/15/2021

The following Clarifications and Assumptions are intended to clarify the scope included in the Agreement between Owner and Contractor

Division 1 - General

1. 1357 Property Owner LLC is the Generator for all items encountered and/or removed from the project site, including, but not limited to, clean construction material debris, special/non-special waste and hazardous waste.
2. All demolition debris and excavated materials are assumed to be “clean” and suitable for disposal as CCDD material. No costs for disposal at Subtitle D or Hazardous facilities are included in the Agreement.
3. All potential water encountered on site is assumed to “clean” and can be pumped on-site, directly into city sewers or directly into the Chicago River with no treatment other than for sedimentation control. Pumping water into containers, removing from site, and treating or disposing at liquid waste facility is not include in the Agreement.
4. Costs to sample, test, analyze, profile and/or characterize soils for any purpose are not included in the Agreement.
5. Environmental monitoring of any kind is not included in the Agreement.
6. No work at the intersection of W. Division St. and Elston Ave. is included in the Agreement.
7. No work at the intersection of North Avenue and Magnolia is included in the Agreement.
8. Earth Retention System(s) for work associated with the new crash wall at the east end of Blackhawk St. in not included in the Agreement.
9. Primary/Building Permit costs are not included in the Agreement.
10. CDOT Right of Way Permits for our work are included in the Agreement.
11. One (1) each 6" New sanitary lateral/tap in Blackhawk St. is included in the Agreement. Permitting and tap fees are excluded. It is assumed that the Tap Permit will be issued as part of the Morton Salt On-Site permitting activity and new lateral/tap will be able to proceed so as not to impact the work indicated in Exhibit D – Construction Schedule.
12. Traffic Control for scope shown is included in the Agreement.
13. Materials Testing costs included in the Agreement are limited to concrete testing services on pour days, concrete cylinders for scope shown, asphalt testing for scope



shown and backfill/subgrade compaction testing for scope shown. Any other testing required by CDOT or any other agency/JHA is not included in the Agreement.

14. Winter conditions costs are not included in the Agreement.
15. All Sales/Use Taxes are excluded from Agreement.
16. Builders Risk insurance and associated deductibles are excluded from the Agreement.
17. All bond costs are excluded from the Agreement.
18. 26% MBE and 6% WBE Subcontractor participation is included in the Agreement.
19. 50% City of Chicago Residency is included in the Agreement.
20. The Agreement is Lump Sum and the quantities indicated on the Summary of Quantities Sheet Nos. 5, 6, 7, 8 and 9 are for reference only and shall not be used for field verification or payment/billing purposes. Walsh will perform the scope of work shown on the drawings to the limits indicated.
21. Construction schedule duration and substantial completion date(s) assumes all necessary permits can be obtained from all Authorities Having Jurisdictions before commencement of the work and that all necessary materials can be procured to maintain dates//durations.
22. Owner agrees to issue all direction and/or Notice in writing.

Exhibit D - Construction Schedule

Morton Salt Redevelopment - Offsite Improvements Proposal Schedule											WALSH									
Activity ID	Activity Name	Orig Dur	Start	Finish	Total Float	2022											2023			
						Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	
	Morton Salt Site 1357 N Elston	143	03-Jan-22	22-Jul-22	0															
	Milestones	108	21-Feb-22	22-Jul-22	0															
A1020	Notice to Proceed Issued by 1357 N. Elston LLC	1	21-Feb-22	21-Feb-22	4															
A1640	Substantial Completion	0		23-Jun-22	0															
A1610	Weather Days	20	24-Jun-22	22-Jul-22	0															
A1620	Inspections / Punchlist / Closeout	10	24-Jun-22	08-Jul-22	10															
A1630	Final Completion	0		22-Jul-22	0															
	Preconstruction	101	03-Jan-22	23-May-22	0															
A1000	Execute Lump Sum Contract	1	03-Jan-22*	03-Jan-22	0															
A1030	Permitting/City Approvals (1357/Cornerstone)	35	03-Jan-22*	18-Feb-22	0															
A1250	BOE/Traffic Signal Permitting (1357/Cornerstone/Walsh)	35	03-Jan-22	18-Feb-22	0															
A1010	Subcontractor Buyout and Award	10	11-Jan-22	24-Jan-22	24															
A1040	Procure Traffic Signal Components (based on early release by 1357)	86	24-Jan-22	23-May-22	0															
A1050	Mobilization	5	22-Feb-22	28-Feb-22	4															
	Blackhawk Street	40	01-Mar-22	25-Apr-22	4															
A1060	Install Blackhawk MOT	1	01-Mar-22	01-Mar-22	4															
A1070	Layout Demo Limits	1	02-Mar-22	02-Mar-22	4															
A1080	Sawcut Demo Limits	1	03-Mar-22	03-Mar-22	4															
A1090	Demo Existing Pavement/Curbs/Sidewalks	5	04-Mar-22	10-Mar-22	4															
A1180	Excavate for Crash Wall	2	10-Mar-22	11-Mar-22	12															
A1100	Demo Railroad Tracks	1	11-Mar-22	11-Mar-22	4															
A1110	Excavate to Subgrade	3	14-Mar-22	16-Mar-22	4															
A1190	FRP Crash Wall	5	14-Mar-22	18-Mar-22	12															
A1120	Adjust Existing Manholes/Structures	2	17-Mar-22	18-Mar-22	4															
A1130	Install Traffic Signal Conduits	2	17-Mar-22	18-Mar-22	4															
A1140	Install Compact New Subbase	3	21-Mar-22	23-Mar-22	4															
A1200	Backfill Crash Wall	2	21-Mar-22	22-Mar-22	12															
A1150	FRP Curbs/Gutters	4	24-Mar-22	29-Mar-22	4															
A1160	Install Traffic Sig Foundations	3	24-Mar-22	28-Mar-22	5															
A1170	FRP Sidewalks / ADA Ramp	3	30-Mar-22	01-Apr-22	4															
A1210	FRP New CIP Pavement	3	04-Apr-22	06-Apr-22	4															
A1220	CIP Pavement Cure Time	4	07-Apr-22	12-Apr-22	4															
A1230	Install Bituminous Pavement	5	13-Apr-22	19-Apr-22	4															
A1240	Site Restoration	4	20-Apr-22	25-Apr-22	4															
	Magnolia	37	17-Mar-22	06-May-22	33															
A1260	Install Magnolia MOT	1	17-Mar-22	17-Mar-22	33															
A1270	Layout Demo Limits	1	18-Mar-22	18-Mar-22	33															
A1280	Sawcut Demo Limits	1	21-Mar-22	21-Mar-22	33															
A1290	Demo Existing Pavement/Curbs/Sidewalks	2	22-Mar-22	23-Mar-22	33															
A1300	Demo Railroad Tracks	3	23-Mar-22	25-Mar-22	33															
A1310	Excavate to Subgrade	3	28-Mar-22	30-Mar-22	33															
A1320	Demo/Excavate/Install CB-A-4 & 8"VCP	2	30-Mar-22	31-Mar-22	33															
A1330	Adjust Existing Manholes/Structures	3	31-Mar-22	04-Apr-22	33															
A1340	Install Traffic Signal Conduits	3	04-Apr-22	06-Apr-22	33															
A1350	Install Compact New Subbase	3	07-Apr-22	11-Apr-22	33															
A1370	Install Traffic Signal Foundations	2	07-Apr-22	08-Apr-22	34															
A1360	FRP Curbs/Gutters	3	12-Apr-22	14-Apr-22	33															
A1380	FRP Sidewalks/ADA Ramp	3	15-Apr-22	19-Apr-22	33															
A1390	FRP New CIP Pavement	4	20-Apr-22	25-Apr-22	33															
A1400	CIP Pavement Cure Time	3	26-Apr-22	28-Apr-22	33															
A1410	Install Bituminous Pavement	3	29-Apr-22	03-May-22	33															
A1420	Site Restoration	3	04-May-22	06-May-22	33															
	Elston/Blackhawk/Magnolia Intersection	42	26-Apr-22	23-Jun-22	20															
						Page 1 of 2												Printed Date: 15-Dec-21		

Morton Salt Redevelopment - Offsite Improvements



Proposal Schedule

Activity ID	Activity Name	Orig Dur	Start	Finish	Total Float	2022												2023	
						Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
A1440	Install Intersection MOT	1	26-Apr-22	26-Apr-22	4					Install Intersection MOT									
A1450	Layout Demo Limits	1	27-Apr-22	27-Apr-22	4					Layout Demo Limits									
A1460	Sawcut Demo Limits	1	28-Apr-22	28-Apr-22	4					Sawcut Demo Limits									
A1470	Demo Existing Concrete Pavement/Curbs/Walks	3	29-Apr-22	03-May-22	4					Demo Existing Concrete Pavement/Curbs/Walks									
A1480	Excavate to Subgrade	2	04-May-22	05-May-22	4					Excavate to Subgrade									
A1490	Install Signal Foundations	3	06-May-22	10-May-22	4					Install Signal Foundations									
A1500	Rough In for Traffic Signals	4	10-May-22	13-May-22	4					Rough In for Traffic Signals									
A1510	Adjust Existing Manholes/Structures	2	16-May-22	17-May-22	4					Adjust Existing Manholes/Structures									
A1520	Install/Compact New Subbase	2	18-May-22	19-May-22	4					Install/Compact New Subbase									
A1530	FRP Curbs/Gutters	3	20-May-22	24-May-22	29					FRP Curbs/Gutters									
A1570	Install Signal Poles/Mast Arms/Controls/Devices	10	24-May-22	07-Jun-22	0					Install Signal Poles/Mast Arms/Controls/Devices									
A1540	FRP Sidewalks/ADA Ramps	3	25-May-22	27-May-22	29					FRP Sidewalks/ADA Ramps									
A1550	FRP New CIP Pavement	4	31-May-22	03-Jun-22	29					FRP New CIP Pavement									
A1650	CIP Pavement Cure Time	3	06-Jun-22	08-Jun-22	29					CIP Pavement Cure Time									
A1580	Terminate/Test/Commission Traffic Signals	7	08-Jun-22	16-Jun-22	0					Terminate/Test/Commission Traffic Signals									
A1560	Install Bituminous Pavement	2	09-Jun-22	10-Jun-22	29					Install Bituminous Pavement									
A1590	Schedule Traffic Signal Turn On	5	17-Jun-22	23-Jun-22	0					Schedule Traffic Signal Turn On									

█ Remaining Level of Effort █ Remaining Work ◆ Milestone
█ Actual Work █ Critical Remaining Work

EXHIBIT E – Morton Salt Outline of Terms and Conditions for TIF Funding Inclusions

This Exhibit shall clarify that the Developer and Owner are securing financing for the full funding of this project through a City of Chicago granted TIF loan. Therefore, the GC must comply with the certain terms of the Morton Salt – Outline of Terms Conditions for TIF Funding:

1. The project cannot commence until the City has issued a Component Commencement letter.
2. The Developer and Owner will engage the services of V3, as a qualified/licensed engineer as the “Consultant Engineer”, who will ensure compliance with plans/specs, CDOT regulations, etc...
3. A certificate of completion will not be issued until a final inspection/acceptance from CDOT is issued, and the GC has provided full compliance with MBE/WBE, prevailing wage and city residency requirements, as evidenced by a close out letter/package.
4. All work shall be performed per the terms of the GC schedule as per Exhibit D and must be completed during 2022.
5. Sections 5.2 - 5.6: Construction Compliance Requirements shall be followed as noted below:

SECTION 5: CONSTRUCTION COMPLIANCE REQUIREMENTS

5.2 PROJECT REVIEW BY CITY CONSTRUCTION COMPLIANCE

Prior to the Community Development Commission hearing, evidence must be provided to DPD that MBE/WBE contractor associations have been informed of the project, via written notice and meetings.

Prior to the Infrastructure Agreement Closing Date, the Developer, general contractor, and all major subcontractors plan to achieve its obligations as established in the Infrastructure Agreement and as mandated by City Council ordinance and DPD policy.

5.3 MBE/WBE HIRING REQUIREMENTS

Developer must exercise a good faith effort to meet the City’s contract participation goals of at least 26% and 6% for MBEs and WBEs respectively for the Project’s construction hard costs as set forth in Article 3.1 of the Agreement. The costs will be more fully described in the MBE/WBE exhibit to the Infrastructure Agreement, but examples are provided below:

- Environmental remediation
- Demolition
- Site preparation
- Building construction
- Construction contingency (if actually incurred in order to complete construction of the Project)

Prior to the start of construction, or prior to the execution of the Infrastructure Agreement, whichever is first, the Developer must submit to DPD its agreement with the General Contractor (the “GC”) for review. DPD will not review sub-contracts but may request copies of such documents from the Developer. The Developer will submit their MBE/WBE utilization plan, including schedule C and D, to DPD for approval. Prior to the execution of the Infrastructure Agreement, the Developer must submit evidence acceptable to DPD that the general contractor has met at least once with, and provided bid documents to, applicable MBE/WBE contractors.

EXHIBIT E – Morton Salt Outline of Terms and Conditions for TIF Funding Inclusions

The City will monitor the Developer's compliance with the MBE/WBE requirement on a monthly basis and at the completion of Project (to be measured in actual dollars expended to date, based on the MBE/WBE exhibit to the Infrastructure Agreement).

Failure to exercise a good faith effort to meet the MBE/WBE goals may result in the non-issuance of the Certificate and the termination of the Infrastructure Agreement.

5.4 CITY RESIDENCY REQUIREMENTS

The Developer must meet City resident requirements for all contracts let involving construction. City residents must perform 50% of all construction hours. This City requirement cannot be waived.

If the Developer fails to contract out 50% of all construction man-hours to City residents, the value of the City financial assistance being provided will be reduced by 1/20th of 1% (.0005) of the final aggregate dollar value expended for all construction contracts let for the Project (to be assessed at the completion of the Project). In addition, failure to meet this requirement will result in a delay in the issuance of the Certificate until the failure is resolved or the Contractor pays Developer for the shortfall as provided herein. The loss of funding as provided above, as applied to the Contract Sum in Article 3.1 of the Agreement, will be Developer's sole remedy provided Contractor fails to meet this requirement. This provision does not apply to the extent Contractor has met these requirements for the Project.

5.5 PREVAILING WAGE REQUIREMENTS

The Developer must pay prevailing wages for all construction trades, as established by the Illinois Department of Labor. Failure to meet this requirement will result in a delay in the issuance of the Certificate until the failure is resolved.

5.6 MONITORING PROVISIONS DURING CONSTRUCTION

Although City written approval for the disbursement of Project equity and Lender Financing will not be required, the City will require the Developer to provide the City with [MONTHLY/QUARTERLY] written progress reports detailing information regarding MBE/WBE utilization, prevailing wage, and city residency compliance. Documentation may include, but shall not be limited to:

- Sub-contractor's activity report;
- Contractor's certification concerning labor standards and prevailing wage requirements;
- Contractor letter of understanding;
- Monthly utilization report;
- Authorization for payroll agent;
- Certified payroll;
- Duplicates of applicable support documentation verifying the disbursement and receipt of overall project funds (i.e. invoices, canceled checks, partial and final waivers-of-lien, etc.);

EXHIBIT E – Morton Salt Outline of Terms and Conditions for TIF Funding Inclusions

If any shortfall exists, these reports must also include a plan by the Developer to address said shortfall.

The City also retains the right to review draw requests which must be accompanied by, among other things, invoices, canceled checks, lien waivers, owner's sworn statement, general contractor's sworn statement and MBE/WBE subcontractor contract amounts and certification letters as a prerequisite to disbursement.

Failure to meet any of the terms above will result in a delay of the issuance of the Certificate until all deficiencies are cured.

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 Developer or the Project, other than liens against the Property, if any:

None.

EXHIBIT H-1

PROJECT BUDGET

<u>Line Item</u>	<u>Cost</u>
Hard Costs	
Walsh Construction (general contractor)	\$ 1,750,000.00
Pending CO #1 V3 Drawings per city corrections (Change order, V3 Companies/construction engineer)	\$ 180,000.00
Pending CO #2 (Change order for anticipated minor modifications along Elston Ave.)	\$ 150,000.00
Sub total:	\$ 2,080,000.00
Soft Costs	
Civil Engineer (IDOT North Ave. denial)	\$ 5,000.00
V3 Companies (construction engineer)	\$ 161,000.00
CDOT/IDOT Permits	\$ 40,000.00
Rail spur extension decommission	\$ 20,000.00
Cornerstone Permits (permit expediting)	\$ 10,000.00
Sub total:	\$ 236,000.00
Contingency (10%)	\$ 231,600.00
TOTAL	\$ 2,547,600.00

EXHIBIT H-2
MBE/WBE BUDGET

Hard Costs:

Infrastructure Improvements	\$2,080,000*
Total:	\$2,080,000
Total MBE/WBE Eligible Costs	\$2,080,000
Minimum Contract Amount to MBE Contractors (26%)	\$ 540,800
Minimum Contract Amount to WBE Contractors (6%)	\$ 124,800

*This amount does not include contingency (\$231,600). To the extent that the contingency is spent on eligible costs, the MBE/WBE required amount will increase accordingly.

EXHIBIT J
OPINION OF DEVELOPER'S COUNSEL



DLA Piper LLP (US)
444 W. Lake Street, Suite 900
Chicago, Illinois 60606
www.dlapiper.com

July 28, 2022

City of Chicago
City Hall, Room 600
121 North LaSalle Street
Chicago, Illinois 60602

Attention: Corporation Counsel

Ladies and Gentlemen:

We have acted as special counsel to 1357 Property Owner, LLC, a Delaware limited liability company ("1357 Owner"), and its managing member, 1357 Elston JV, LLC, a Delaware limited liability company ("1357 JV" and, collectively with 1357 Owner, the "Developer"), in connection with a certain 1357 Property Owner, LLC Redevelopment Agreement (the "Agreement") of even date herewith, by and between Developer and the City of Chicago, a municipal corporation (the "City"). The Agreement relates to the provision of tax increment financing assistance to Developer from the City for Developer's redevelopment of the property commonly known as 1357 N. Elston Avenue (the "Property"), located in the North Branch (South) Redevelopment Project Area (the "Project"). In that capacity, we have examined, among other things, the Agreement.

In rendering this opinion, we also have examined the original or certified, conformed or photostatic copies of: Judgment searches and other due diligence searches for Illinois with respect to Developer performed by Cogency Global and delivered to the Corporation Counsel on April 29, 2022 and June 23, 2022 (the "Searches"); 1357 Owner's Delaware Certificate of Formation certified by the Delaware Secretary of State (the "Delaware Secretary") on April 29, 2022; 1357 JV's Delaware Certificate of Formation certified by the Delaware Secretary on June 21, 2022; the Operating Agreement of 1357 Property Owner, LLC, a Delaware limited liability company, made as of December 28, 2017 (the "Operating Agreement"); 1357 Owner's Certificate of Good Standing in the State of Delaware certified by the Delaware Secretary on April 21, 2022; 1357 JV's Certificate of Good Standing in the State of Delaware certified by the Delaware Secretary on June 16, 2022; 1357 Owner's Certificate of Good Standing in the State of Illinois certified by the Illinois Secretary of State on April 20, 2022; the certificate of Developer attached hereto as Exhibit A and referred to herein (the "Certificate"); records of corporate proceedings of Developer relating to the Project and the Agreement; and such legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed (collectively the "Documents").

In all such examinations, and for the purposes of this opinion, we have assumed: (i) the genuineness of all signatures (other than those of Developer) on the Agreement and Documents;

(ii) the authenticity and completeness of documents submitted to us as originals; (iii) the authenticity, completeness and conformity to the originals of all documents submitted to us as certified, conformed or photostatic copies; (iv) that all natural persons who are signatories to the Agreement were legally competent at the time of execution; (v) that all material terms and conditions of the relationship between Developer and any other parties to the Agreement are correctly and completely reflected in the Agreement; and (vi) that the execution and delivery of the Agreement and other documents reviewed by us, and the entry into and performance of the transactions contemplated by the Agreement by all parties other than Developer have been duly authorized by all necessary action and that the Agreement and other documents that we have reviewed have constituted the valid and binding obligations of all parties other than Developer.

Based upon the foregoing, and subject to the assumptions, qualifications and limitations set forth herein, it is our opinion that:

1. 1357 Owner is a limited liability company duly formed, legally existing and in good standing under the laws of Delaware, is registered to do business and in good standing under the laws of Illinois, and has full limited liability company power and authority to undertake the Project and to carry on its business as presently conducted on the Property.
2. 1357 JV is a limited liability company duly formed, legally existing and in good standing under the laws of Delaware and has full limited liability company power and authority to undertake the Project and to carry on its business as presently conducted on the Property.
3. The Agreement (a) has been properly authorized, executed and delivered by or on behalf of Developer, (b) constitutes the legal, valid and binding obligation of Developer, and (c) is enforceable against Developer in accordance with its terms.
4. 1357 Owner has all requisite limited liability company right, power and authority to execute and deliver the Agreement and to perform its obligations thereunder. Such execution, delivery and undertaking of performance will not conflict with, or result in a violation of, 1357 Owner's Certificate of Formation or Operating Agreement. Based on the Certificate, such execution, delivery and undertaking of performance (provided 1357 Owner performs in accordance with the terms and conditions of the Agreement) will not result in a material breach or other violation of any of the terms, conditions or provisions of any agreement, instrument or document to which 1357 Owner is a party or by which 1357 Owner or its properties are bound, or any law, regulation, order, writ, injunction or decree of any court or governmental or regulatory authority. Such execution and delivery, to our knowledge (based on the Certificate and without further investigation), will not: (a) result in the creation of any lien, charge or encumbrance on any property, other than the Property, or assets of 1357 Owner, (b) result in a violation of any of the terms, conditions or provisions of any order, writ, injunction or decree of any court, governmental or regulatory authority, (c) constitute grounds for the acceleration of the

maturity of any agreements or other instruments to which 1357 Owner is a party or by which any of the property of 1357 Owner may be bound, or (d) conflict with, constitute an event of default under, or result in a violation of the provisions of any agreement or other instrument of which we have knowledge to 1357 Owner is a party, or by which the properties or assets of 1357 Owner are bound.

5. 1357 JV has all requisite limited liability company right, power and authority to execute and deliver the Agreement and to perform its obligations thereunder. Such execution, delivery and undertaking of performance will not conflict with, or result in a violation of, 1357 JV's Certificate of Formation or Operating Agreement. Based on the Certificate, such execution, delivery and undertaking of performance (provided 1357 JV performs in accordance with the terms and conditions of the Agreement) will not result in a material breach or other violation of any of the terms, conditions or provisions of any agreement, instrument or document to which 1357 JV is a party or by which 1357 JV or its properties are bound, or any law, regulation, order, writ, injunction or decree of any court or governmental or regulatory authority. Such execution and delivery, to our knowledge (based on the Certificate and without further investigation), will not: (a) result in the creation of any lien, charge or encumbrance on any property, other than the Property, or assets of 1357 JV, (b) result in a violation of any of the terms, conditions or provisions of any order, writ, injunction or decree of any court, governmental or regulatory authority, (c) constitute grounds for the acceleration of the maturity of any agreements or other instruments to which 1357 JV is a party or by which any of the property of 1357 JV may be bound, or (d) conflict with, constitute an event of default under, or result in a violation of the provisions of any agreement or other instrument of which we have knowledge to 1357 JV is a party, or by which the properties or assets of 1357 JV are bound.

6. No authorizations, approvals or consents of, or filings or registrations with, or the giving of notice to, any person or any governmental or regulatory authority or agency of the State of Illinois or any political subdivision thereof are necessary for the execution and delivery of the Agreement or for the validity or enforceability thereof that have not already been obtained or effected.

7. A federal or state court sitting in the State of Illinois and applying the choice of law provisions of the State of Illinois would enforce the choice of law provisions contained in the Agreement and apply the law of the State of Illinois to the transactions evidenced thereby.

8. To our knowledge, relying solely on the Searches and the Certificate, and except as set forth in the Searches (copies of which have been delivered to the City), and without further investigation, there are no judgments, or legal, administrative or other governmental proceedings pending or threatened before any court or governmental agency against Developer that would materially and adversely affect its ability to perform its obligations under the Agreement.

9. To our knowledge, relying solely on the Certificate, without further investigation, there is no default by Developer with respect to any indenture, loan agreement, mortgage, deed of trust, note or any other agreement or instrument to which Developer is a party or by which Developer is bound, a default under which would have a material adverse effect on Developer or its business except as disclosed in the Certificate.

10. To our knowledge, relying solely on the Certificate, without further investigation, as of the date of this opinion, there are no options, rights or commitments to acquire or transfer any ownership interests of Developer except as permitted under the Agreement or except as provided in the Operating Agreement of 1357 Owner.

11. To our knowledge, relying solely on the Certificate and the Searches, and except as set forth in the Searches, and without further investigation, Developer is not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in or under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse effect on Developer or its business.

12. To the best of our knowledge, relying solely on the Certificate, and without further investigation, Developer owns, possesses, is licensed or otherwise has the right to use all licenses, permits and other governmental approvals and authorizations, operating authorities, certificates of public convenience, goods carriers permits, authorizations and other rights that are necessary for the operation of its business at the Property and which are currently obtainable.

The opinions set forth above are subject to the following qualifications:

i. Wherever we indicate that our opinion with respect to the existence or absence of facts is based on our knowledge, our opinion is based solely on (A) the actual knowledge of the attorneys currently with the firm who have represented Developer in connection with the transactions contemplated by the Agreement and of any other attorneys presently in our firm whom we have determined are likely, in the course of representing said party, to have knowledge of the matters covered by this opinion, (B) the representations and warranties of said party contained in the Agreement, and (C) the Certificate as issued by Developer, and we have not undertaken any independent investigation (and we have not made or caused to be made any review of any court file or indices except as described above with respect to the Searches) and no inference as to our knowledge should be drawn from our representation of Developer or otherwise. However, we know of no facts which lead us to believe such factual matters set forth in the Certificate are untrue or inaccurate;

ii. Your ability to enforce the Agreement may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or transfer and other similar laws now or hereafter in effect relating to or affecting creditors' rights generally, and their interpretation by courts of appropriate jurisdiction;

iii. Enforcement of your rights and remedies may be limited by general principles of equity, regardless of whether such enforcement is considered in a proceeding in equity or at law, and the availability of equitable remedies or equitable defenses would be subject to the discretion of the court requested to grant such remedies or allow such defenses; and further, in this regard, we have assumed that you will exercise your rights and remedies under the Agreement in good faith and in circumstances and a manner which are commercially reasonable;

iv. Certain provisions of the Agreement may be rendered unenforceable or limited by applicable laws and judicial decisions;

v. If, and to the extent, the Agreement is construed to provide for the payment of interest on interest, such provisions may be unenforceable under Bowman v. Neeley, 137 Ill. 443 (1891) and other cases to the same effect;

vi. We express no opinion with respect to provisions in the Agreement which purport to (A) confer, waive or consent to the jurisdiction of any court, (B) provide for service of process except in accordance with applicable law, (C) waive any right granted by statutory or common law, or (D) require indemnification or contribution for liabilities under the provisions of any Federal or state securities law or in respect to the negligent or wrongful conduct of the indemnified party or its representatives or agents; and

vii. We call your attention to the fact that although we represent Developer as special counsel in connection with the subject transaction, we do not represent Developer generally, and our engagement has been limited to the specific matters as to which we have been consulted.

This opinion is limited to the laws of the United States (except as set forth below) and the laws of the State of Illinois and political subdivisions (as to matters set forth in Paragraphs 4 and 5 only) thereof in effect on the date hereof as they presently apply. We shall have no continuing obligations to inform you of changes in law or fact subsequent to the date hereof or of facts of which we become aware after the date hereof.

We express no opinion as to matters of title or priority or perfection of liens or security interests with regard to real and personal property. We understand that, with respect to all real and personal property security interests intended to be created by the Agreement and the priority of the liens thereof, you will rely on a title insurance policy provided to Developer and other searches as you deem adequate, and, accordingly, we express no opinion to such matters.

We have not reviewed and do not opine as to: (i) compliance by the Project with applicable health, fire, safety, building, environmental, subdivision laws, ordinances, codes, rules or regulations, (ii) ERISA laws, rules and regulations, or (iii) Federal or state taxation, banking, securities, Patriot Act or other anti-terrorist or "blue sky" laws, rules or regulations.

This opinion is limited to the matters set forth herein. This opinion is provided to you as a legal opinion only and not as a guaranty or warranty of the matter discussed herein or the documents referred to herein. No opinion may be inferred or implied beyond the matters expressly contained herein, and no portion of this opinion may be quoted or in any other way published without the express written consent of the undersigned. This opinion is rendered solely for your benefit and no other person or entity shall be entitled to rely on any matter set forth herein without the express written consent of the undersigned.

Very truly yours,

DLA Piper LLP (US)

DLA PIPER LLP (US)

OPINION EXHIBIT A

CERTIFICATE

(Attached)

**CERTIFICATE OF 1357 ELSTON JV, LLC,
MEMBER AND MANAGER OF 1357 PROPERTY OWNER, LLC**

July 28, 2022

The undersigned, not personally but in his capacity as Managing Member of 1357 Elston JV, LLC, a Delaware limited liability company (“**1357 JV**”), which is the sole member and manager of 1357 Property Owner, LLC (“**1357 Owner**”), hereby certifies as follows:

1. This certificate (the “**Certificate**”) is made in reference to the 1357 Property Owner, LLC Redevelopment Agreement of even date herewith and all other documents referenced in the legal opinion to which this certificate is attached (collectively, the “**Agreement**”) executed by 1357 Owner and the City of Chicago, Illinois, an Illinois municipal corporation (the “**City**”), relating to a redevelopment project (the “**Project**”) in the City concerning real estate commonly known as 1357 N. Elston Avenue and described in the Agreement as the “**Property**.**”**
2. The undersigned is familiar with the Agreement and has made inquiry of those personnel of 1357 Owner and 1357 JV who are familiar with matters relating to the Agreement and this Certificate.
3. In the course of my duties for 1357 JV, I am in a position to be familiar with, or I have made inquiry of those personnel of 1357 Owner and 1357 JV who are in a position to be familiar with, the following: (a) any default by 1357 Owner or 1357 JV under any judgment, order, writ, injunction, decree or demand of any court, governmental authority or regulatory authority or any default in or under any law, order, regulation or demand of any governmental agency or instrumentality (“**Court Order Default**”), (b) any default by 1357 Owner or 1357 JV under any indenture, loan agreement, mortgage, deed of trust, note or any other agreement or instrument to which 1357 Owner or 1357 JV is a party or by which 1357 Owner or 1357 JV, or the assets or property of either of them are bound (“**Encumbrance Agreement Default**”), (c) any judgments, or legal, administrative or other governmental proceedings pending or to my knowledge threatened before any court or governmental proceedings or to my knowledge threatened before any court or governmental agency against 1357 Owner or 1357 JV, or affecting the business of either of them, or the execution, delivery or undertaking by either of them of their performance of the Agreement (“**Litigation**”), and (d) any options, rights or commitments to transfer or acquire any ownership interests in the Developer (“**Options**”).
4. The signatures on the Agreement on behalf of 1357 Owner and 1357 JV are genuine.
5. I have been duly appointed to, and am validly acting as the Managing Member of 1357 JV, as listed below, and my specimen signature set forth below is genuine:

Name

Craig Golden

Title

Managing Member

Signature



6. Except for the following, to my knowledge there is no Court Order Default (if none, so state):

None.

7. Except for the following, to my knowledge there is no Encumbrance Agreement Default (if none, so state):

None.

8. Except for the following, to my knowledge there is no Litigation (if none, so state):

None.

9. Except for the following, to my knowledge there are no Options (if none, so state):

None.

10. There are no judgments outstanding against 1357 Owner or 1357 JV.

11. 1357 Owner is a limited liability company duly organized, legally existing and in good standing under the laws of Delaware, is registered to do business and in good standing under the laws of Illinois, and has full limited liability company power and authority to undertake the Project and to carry on its business as presently conducted on the Property.

12. 1357 JV is a limited liability company duly formed, legally existing and in good standing under the laws of Delaware, and has full corporate power and authority to undertake the Project and to carry on its business as presently conducted on the Property.

13. The Agreement (a) has been properly authorized, executed and delivered by or on behalf of 1357 Owner or 1357 JV, (b) constitutes the legal, valid and binding obligation of 1357 JV and 1357 Owner, and (c) is enforceable against 1357 JV and 1357 Owner in accordance with its terms.

14. Attached hereto as Exhibit A-1 and Exhibit A-2, respectively, are accurate and complete copies of 1357 Owner's Certificate of Formation, certified by the Delaware Secretary of State as of April 20, 2022 (1357 Owner's "**Certificate of Formation**"), and 1357 Owner's Operating Agreement, made as of December 28, 2017 (1357 Owner's "**Operating Agreement**"). There are no other filings, agreements or actions governing the existence, organization or operation of 1357 Owner.

15. Attached hereto as Exhibit B-1 and Exhibit B-2, respectively, are accurate and complete copies of 1357 JV's Certificate of Formation, certified by the Delaware Secretary of State as of June 21, 2022 (1357 JV's "**Certificate of Formation**"), and 1357 JV's Operating Agreement, made as of July 2, 2020 (1357 JV's "**Operating Agreement**"). There are no other filings, agreements or actions governing the existence, organization or operation of 1357 JV.

16. Attached hereto as Exhibit C is an accurate and complete copy of the resolutions adopted

by written consent of 1357 JV's managing member, which authorize and direct 1357 JV, on its own behalf, and in its capacity as the manager of 1357 Owner, to execute and deliver the Agreement and to undertake the performance of its obligations thereunder.

17. 1357 Owner has all requisite limited liability company right, power and authority to execute and deliver the Agreement and to perform its obligations thereunder. 1357 Owner's execution, delivery and undertaking of performance of its obligations will not conflict with, or result in a violation of 1357 Owner's Certificate of Formation or Operating Agreement. Such execution, delivery and undertaking of performance (provided 1357 Owner performs in accordance with the terms and conditions of the Agreement) will not result in a material breach or other violation of any of the terms, conditions or provisions of any agreement, instrument or document to which 1357 Owner is a party or by which 1357 Owner or its properties are bound, or any law, regulation, order, writ, injunction or decree of any court or governmental or regulatory authority. Such execution and delivery shall not: (a) result in the creation of any lien, charge or encumbrance on any property, other than 1357 Owner's interest in the Property, or assets of 1357 Owner, (b) result in a violation of any of the terms, conditions or provisions of any order, writ, injunction or decree of any court, governmental or regulatory authority, (c) constitute grounds for the acceleration of the maturity of any agreements or other instruments to which 1357 Owner is a party or by which any of the property of 1357 Owner may be bound, or (d) conflict with, constitute an event of default under, or result in a violation of the provisions of any agreement or other instrument of which we have knowledge to which 1357 Owner is a party, or by which the properties or assets of 1357 Owner are bound.

18. 1357 JV has all requisite limited liability company right, power and authority to execute and deliver the Agreement and to perform its obligations thereunder. 1357 JV's execution, delivery and undertaking of performance of its obligations will not conflict with, or result in a violation of 1357 JV's Certificate of Formation or Operating Agreement. Such execution, delivery and undertaking of performance (provided 1357 JV performs in accordance with the terms and conditions of the Agreement) will not result in a material breach or other violation of any of the terms, conditions or provisions of any agreement, instrument or document to which 1357 JV is a party or by which 1357 JV or its properties are bound, or any law, regulation, order, writ, injunction or decree of any court or governmental or regulatory authority. Such execution and delivery shall not: (a) result in the creation of any lien, charge or encumbrance on any property, other than 1357 JV's interest in the Property, or assets of 1357 JV, (b) result in a violation of any of the terms, conditions or provisions of any order, writ, injunction or decree of any court, governmental or regulatory authority, (c) constitute grounds for the acceleration of the maturity of any agreements or other instruments to which 1357 JV is a party or by which any of the property of 1357 JV may be bound, or (d) conflict with, constitute an event of default under, or result in a violation of the provisions of any agreement or other instrument of which we have knowledge to which 1357 JV is a party, or by which the properties or assets of 1357 JV are bound.

19. No circumstances have occurred or exist which have triggered or will trigger a dissolution of 1357 Owner or 1357 JV. As of the date hereof, both 1357 Owner and 1357 JV continue to exist each as a limited liability company.

20. 1357 Owner or 1357 JV, as appropriate, own or possess or are licensed or otherwise have

the right to use all licenses, permits and other governmental approvals and authorizations, operating authorities, certificates of public convenience, goods carriers permits, authorizations and other rights that are necessary for the operation of their respective business at the Property, and which are currently obtainable.

21. This Certificate may be relied upon by DLA Piper LLP (US) in its opinion (the “Opinion”) addressed to the City of Chicago in connection with the Agreement. The undersigned consents to the issuance of the Opinion and acknowledges that it has reviewed the form thereof.

[Signature Page Follows]

IN WITNESS WHEREOF, I have hereunto signed my name to this Certificate this 28th day of July, 2022.

1357 PROPERTY OWNER, LLC, a Delaware limited liability company

By: 1357 ELSTON JV, LLC, its manager



By: Craig Golden
Its: Managing Member

1357 ELSTON JV, LLC, a Delaware limited liability company



By: Craig Golden
Its: Managing Member

EXHIBIT A-1

1357 PROPERTY OWNER, LLC CERTIFICATE OF FORMATION

Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT
COPIES OF ALL DOCUMENTS ON FILE OF "1357 PROPERTY OWNER, LLC" AS
RECEIVED AND FILED IN THIS OFFICE.*

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

*CERTIFICATE OF FORMATION, FILED THE TWENTY-EIGHTH DAY OF
NOVEMBER, A.D. 2017, AT 10:17 O'CLOCK A.M.*

*AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID
CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE
AFORESAID LIMITED LIABILITY COMPANY, "1357 PROPERTY OWNER, LLC".*

6635191 8100H
SR# 20221727360



You may verify this certificate online at corp.delaware.gov/authver.shtml



A handwritten signature in black ink, appearing to read "JWB". Below the signature is a horizontal line, and further down the line is the printed name "Jeffrey W. Bullock, Secretary of State".

Authentication: 203322513
Date: 05-02-22

**STATE *of* DELAWARE
LIMITED LIABILITY COMPANY
CERTIFICATE *of* FORMATION**

First: The name of the limited liability company is 1357 Property Owner, LLC

Second: The address of its registered office in the State of Delaware is 160 Greentree Drive, Ste 101 in the City of Dover.

Zip code 19904. The name of its Registered agent at such address is National Registered Agents, Inc.

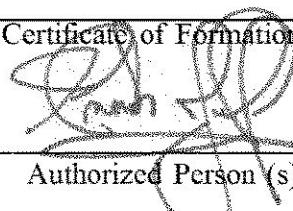
Third: (Use this paragraph only if the company is to have a specific effective date of dissolution: "The latest date on which the limited liability company is to dissolve is _____ .")

Fourth: (Insert any other matters the members determine to include herein.)


In Witness Whereof, the undersigned have executed this Certificate of Formation this

28th day of November, 2017.

By:


Authorized Person(s)

Name: A.J. Jindal

EXHIBIT A-2

1357 PROPERTY OWNER, LLC OPERATING AGREEMENT

AMENDED AND RESTATED OPERATING AGREEMENT
of
1357 PROPERTY OWNER, LLC

This Amended and Restated Operating Agreement (this “**Agreement**”) of 1357 Property Owner, LLC (the “**Company**”) is made as of December 28, 2017 by **1357 Elston JV, LLC**, a Delaware limited liability company (“**JV**”).

1. **FORMATION.** Pursuant to the Delaware Limited Liability Company Act (6 Del.C. §18-101, et seq.), as amended from time to time (the “**Act**”), a Certificate of Formation for the Company was filed with the Secretary of State of Delaware on November 28, 2017 (the “**Certificate of Formation**”; collectively with any other documents used to form the Company, the “**Formation Documents**”).
2. **AMENDMENT AND RESTATEMENT.** The Company has been governed by an Operating Agreement dated as of November 28, 2017 (the “**Existing Operating Agreement**”). Concurrently herewith, (i) all previous owners of the Company are withdrawing, and (ii) all previous managers of the Company are resigning. JV hereby amends and restates the Existing Operating Agreement in its entirety by entering into this Agreement. This Agreement supersedes, replaces, amends, and restates the Existing Operating Agreement in its entirety.
3. **REGISTERED OFFICES; PLACE OF BUSINESS.**
 - 3.1. **REGISTERED OFFICE IN DELAWARE.** The name and address of the registered office of the Company in the State of Delaware is National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, DE 19904. The registered office and registered agent may be changed from time to time by filing the address of the new registered office and/or the name of the new registered agent with the Secretary of State pursuant to the Act.
 - 3.2. **REGISTERED OFFICE IN ILLINOIS.** The name and address of the registered office of the Company in the State of Illinois is Vasilios P. Siomos, Esq., 1130 W. Monroe St., Chicago, IL 60607. The registered office and registered agent may be changed from time to time by filing the address of the new registered office and/or the name of the new registered agent with the Secretary of State of Illinois.
 - 3.3. **PRINCIPAL BUSINESS OFFICE.** The location of the principal place of business of the Company shall be 1130 W. Monroe St., Chicago, IL 60607 or such other location as may hereafter be determined by Manager (defined below) in accordance with this Agreement.
4. **TERM.** The Company commenced on the date of the Certificate of Formation. The Company shall continue in existence in perpetuity unless sooner terminated or dissolved at such time as this Agreement may specify or as may be required under the Act.
5. **PURPOSE.** The Company is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is, engaging in any lawful act or activity for which limited liability companies may be formed under the Act and engaging in any and all activities necessary or incidental to the foregoing.
6. **MEMBER.**
 - 6.1. **IDENTITY AND CONTRIBUTION.** Upon its execution and delivery of this Agreement, JV (“**Member**”) shall be automatically and immediately admitted as the sole member of the Company and credited with a capital contribution to the Company in the amount written in Exhibit A.

- 6.2. TRANSFERS. No Member may transfer (whether directly or indirectly) any of its interest in the Company without Manager's approval.
- 6.3. LIABILITY. No Member, none of such Member's affiliates, and none of their respective officers, directors, employees, owners, or managers shall have any liability whatsoever for any of the Company's obligations or liabilities.

7. MANAGER.

- 7.1. AUTHORITY. The Company is and shall be a manager-managed limited liability company. Excluding amendments to this Agreement as provided in §12, the business and affairs of the Company shall be controlled and managed exclusively by Manager in all respects. Manager shall have the power and authority to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including, without limitation, holding and exercising all powers and authorities, whether statutory or otherwise, possessed by managers and/or members of limited liability companies under the laws of the State of Delaware. Members of the Company shall have the minimum amount of authority and control that is permitted under the Act (i.e., only the inalienable rights, if any, under the Act), and no authority or control beyond such minimum.
 - 7.2. APPOINTMENT. JV is appointed as the sole manager of the Company ("Manager").
 - 7.3. TAX MATTERS. JV is designated the "Tax Matters Partner" under the Internal Revenue Code of 1986, as amended.
 - 7.4. PERFORMANCE. Manager shall not have any liability whatsoever to the Company or Member except for any actual loss sustained by the Company or Member that is directly caused by the intentional misconduct of, or an *ultra vires* act by, Manager.
 - 7.5. RESIGNATION. Manager may resign at any time with notice to Member.
 - 7.6. INDEMNITIES. The Company shall defend, indemnify and hold harmless (and shall cause any pertinent Subsidiary to defend, indemnify and hold harmless) Manager, its affiliates, Member, its Affiliates, and all of their respective members, partners, shareholders, officers, directors, employees, agents and representatives, as well as all officers, directors, employees, representatives, and agents of the Company (each, an "**Indemnitee**"), from and against any and all losses, claims, demands, costs, damages, liabilities, whether separate or joint and several, expenses of any nature (including, without limitation, reasonable attorneys' fees and disbursements), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings in which the Indemnitee may be involved, or threatened to be involved, as a party or otherwise, arising out of or in connection with the business of the Company, regardless of whether the Indemnitee continues to be a Manager, Member, an Affiliate of a Manager or Member, or an officer, director, member, employee, agent or representative of the Manager or Member or an Affiliate of the Manager or Member at the time any such liability or expense is paid or incurred, to the extent the Indemnitee's conduct did not constitute fraud, gross negligence, willful misconduct or a material breach of the express terms of this Agreement.
8. FISCAL YEAR. The fiscal year of the Company for accounting and tax purposes shall end at the close of business on such date or dates of each calendar year as may be selected by Manager in its sole discretion. Following such selection, Manager is authorized to take such actions as it may deem necessary or appropriate to change the Company's fiscal year end to any other date that it may determine in its sole discretion. Manager is also authorized to make all elections for tax or other purposes as it may deem necessary or appropriate in connection therewith, including the establishment and implementation of

transition periods.

9. **ALLOCATION OF PROFITS AND LOSSES.** The Company's profits and losses shall be allocated to Member.
10. **DISTRIBUTIONS.** All distributions shall be made to Member. Distributions shall be made at the times and in the aggregate amounts determined by Manager. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not be required to make a distribution to Member on account of its interest in the Company if such distribution would violate §18-607 of the Act or other applicable law.

The provisions of this Agreement (including, without limitation, this §10) are intended solely to benefit of Member and, to the fullest extent permitted by applicable law, shall not be construed as conferring any benefit upon any creditor of the Company (and no such creditor shall be a third-party beneficiary of this Agreement). Member shall not have any duty or obligation to any creditor of the Company to make any contributions or payments to the Company.

11. **DISSOLUTION.** The Company shall dissolve, and its affairs shall be wound up, upon the first to occur of the following events: (a) the written consent of Manager; (b) the resignation, bankruptcy or dissolution of Member or the occurrence of any other event which terminated the continued membership of Member in the Company; or (c) the entry of a decree of judicial dissolution under §18-802 of the Act.
12. **AMENDMENTS.** The provisions of this Agreement may be amended, modified or waived only with the written consent of Member.
13. **GOVERNING LAW.** This Agreement shall be governed by, and construed under, the laws of the State of Delaware (without regard to conflict of law principles), all rights and remedies being governed by said laws.

[signature page follows]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the first date written above.

MEMBER

1357 Elston JV, LLC, a Delaware limited liability company

By: 1357 Sponsor, LLC, its Manager

By: _____
Name: Matthew G. Garrison
Title: Manager

MANAGER

1357 Elston JV, LLC, a Delaware limited liability company

By: 1357 Sponsor, LLC, its Manager

By: _____
Name: Matthew G. Garrison
Title: Manager

WITHDRAWAL AND RESIGNATION

Each of the undersigned hereby withdraws as a Member and resigns as a Manager.

Matthew G. Garrison, an individual

Nathan G. Laurell, an individual

EXHIBIT A

MEMBERS

Member	Address	Initial Capital Contribution	Initial Percentage Interest
1357 Elston JV, LLC	% R2 Companies 1130 W. Monroe St. Chicago, IL 60607 mg@r2.me	\$7,900,000.00	100%
	Totals: \$7,900,000.00		100%

EXHIBIT B-1

1357 ELSTON JV, LLC CERTIFICATE OF FORMATION

Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT
COPIES OF ALL DOCUMENTS ON FILE OF "1357 ELSTON JV, LLC" AS
RECEIVED AND FILED IN THIS OFFICE.*

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

*CERTIFICATE OF FORMATION, FILED THE TWENTY-FIRST DAY OF
DECEMBER, A.D. 2017, AT 10:36 O'CLOCK A.M.*

*CERTIFICATE OF AMENDMENT, CHANGING ITS NAME FROM "1357
SPONSOR JV, LLC" TO "1357 ELSTON JV, LLC", FILED THE TWENTY-
SIXTH DAY OF DECEMBER, A.D. 2017, AT 10:15 O'CLOCK A.M.*

*AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID
CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE
AFORESAID LIMITED LIABILITY COMPANY, "1357 ELSTON JV, LLC".*



Jeffrey W. Bullock, Secretary of State



6673333 8100H
SR# 20223110374

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 204028453
Date: 07-28-22

State of Delaware
Secretary of State
Division of Corporations
Delivered 10:36 AM 12/21/2017
FILED 10:36 AM 12/21/2017
SR 20177713590 - File Number 6673333

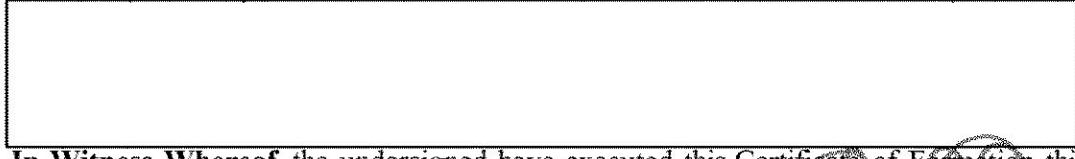
STATE *of* DELAWARE
LIMITED LIABILITY COMPANY
CERTIFICATE *of* FORMATION

First: The name of the limited liability company is 1357 Sponsor JV, LLC

Second: The address of its registered office in the State of Delaware is 160 Greentree Drive, Ste 101 in the City of Dover

Zip code 19904. The name of its Registered agent at such address is National Registered Agents, Inc.

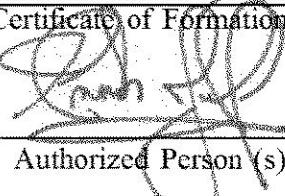
Third: (Use this paragraph only if the company is to have a specific effective date of dissolution: "The latest date on which the limited liability company is to dissolve is _____ .")

Fourth: (Insert any other matters the members determine to include herein.)


In Witness Whereof, the undersigned have executed this Certificate of Formation this

21th day of December, 2017.

By:


Authorized Person(s)

Name: A.J. Jindal

State of Delaware
Secretary of State
Division of Corporations
Delivered 10:15 AM 12/26/2017
FILED 10:15 AM 12/26/2017
SR 20177763194 - File Number 6673333

STATE OF DELAWARE
CERTIFICATE OF AMENDMENT

1. Name of Limited Liability Company: 1357 Sponsor JV, LLC
2. The Certificate of Formation of the limited liability company is hereby amended as follows: Change entity name:

1357 Elston JV, LLC

IN WITNESS WHEREOF, the undersigned have executed this Certificate on the 26th day of December, A.D. 2017.

By: 
Authorized Person(s)

Name: A.J. Jindal
Print or Type

EXHIBIT B-2

1357 ELSTON JV, LLC OPERATING AGREEMENT

AMENDED AND RESTATED OPERATING AGREEMENT

OF

**1357 ELSTON JV, LLC,
a Delaware limited liability company**

Dated as of July 2, 2020

THE LIMITED LIABILITY COMPANY INTERESTS REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH INTERESTS MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME, EXCEPT IN COMPLIANCE WITH (a) THE REQUIREMENTS OF THE SECURITIES ACT OF 1933, AS AMENDED, AND ANY OTHER APPLICABLE LAWS, RULES AND REGULATIONS AND (b) THE OTHER TRANSFER RESTRICTIONS SET FORTH HEREIN.

TABLE OF CONTENTS

ARTICLE 1 DEFINITIONS AND TERMS.....	1
ARTICLE 2 THE COMPANY AND ITS BUSINESS	14
ARTICLE 3 MEMBERS AND CLOSING CAPITAL CONTRIBUTIONS	16
ARTICLE 4 ALLOCATION OF PROFITS AND LOSSES	17
ARTICLE 5 DISTRIBUTIONS; REPAYMENT OF MEMBER LOANS	19
ARTICLE 6 MANAGEMENT	20
ARTICLE 7 MEMBERS' MEETINGS, RIGHTS, OBLIGATIONS AND LIABILITIES.....	34
ARTICLE 8 TRANSFERS.....	36
ARTICLE 9 ADDITIONAL CAPITAL CONTRIBUTIONS.....	38
ARTICLE 10 BOOKS, RECORDS, REPORTS AND BANK ACCOUNTS	40
ARTICLE 11 TERMINATION AND DISSOLUTION.....	43
ARTICLE 12 INDEMNIFICATION OF THE MANAGER, MEMBERS AND THEIR AFFILIATES.....	44
ARTICLE 13 BUY/SELL	45
ARTICLE 14 FORCED SALE.....	48
ARTICLE 15 REPRESENTATIONS AND WARRANTIES	52
ARTICLE 16 MISCELLANEOUS PROVISIONS.....	57

EXHIBITS

- | | |
|-----------|--|
| Exhibit A | - Description of Property |
| Exhibit B | - Members; Percentage Interest; Capital Contributions |
| Exhibit C | - Approved 2020 Business Plan and Approved 2020 Budget |
| Exhibit D | - Form of Property Management Agreement |
| Exhibit E | - Form of Leasing Agreement |
| Exhibit F | - Form of GC Agreement |

**AMENDED AND RESTATED OPERATING AGREEMENT
OF
1357 ELSTON JV, LLC**

This Amended and Restated Operating Agreement (“Agreement”) is made and entered into as of July 2, 2020, by and among **1357 Sponsor, LLC**, a Delaware limited liability company (collectively with its successors and assigns in accordance with this Agreement, “Sponsor”), **Skydeck Real Estate I LLC**, an Illinois limited liability company (collectively with its successors and assigns in accordance with this Agreement, “Skydeck”), **Pradera Investments LLC**, an Iowa limited liability company (collectively with its successors and assigns in accordance with this Agreement, “Pradera”), and **Timothy Parker**, an individual (collectively with his successors and assigns in accordance with this Agreement, “Parker”). Pradera, Parker, and Skydeck are collectively referred to herein as the “Skydeck Group”.

RECITALS:

WHEREAS, a Certificate of Formation (as same may be amended from time to time in accordance with this Agreement, the “Certificate of Formation”) for 1357 Elston JV, LLC (the “Company”) was filed with the Secretary of the State of Delaware (the “Secretary of State”) on December 21, 2017 (the “Filing Date”) pursuant to the provisions of the Delaware Limited Liability Company Act, Delaware Code, Title 6, Section 18-101, et seq., as amended from time to time (the “Act”);

WHEREAS, the Company has been governed by an Operating Agreement dated as of December 28, 2017 (the “Existing Operating Agreement”); and

WHEREAS, the parties hereto desire to amend and restate the Existing Operating Agreement by entering into this Agreement, which shall set forth their respective rights and obligations effective as of the date hereof and on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and the promises contained herein (the receipt and sufficiency of which being hereby acknowledged), the parties hereto, intending to be legally bound, do hereby agree as follows, which agreement shall amend and restate the Existing Operating Agreement in its entirety:

ARTICLE 1

DEFINITIONS AND TERMS

1.1 **Definitions.** Unless the context otherwise requires, the following terms shall have the following meanings for the purposes of this Agreement:

“**16 OC Lease**” means the Lease dated December 6, 2019 between Property Owner and 16 On Center, LLC, an Illinois limited liability company (collectively with its Controlled Affiliates, “**16 OC**”), as same may be amended, modified, supplemented, and/or restated from time to time (subject to Section 6.4.21).

“**16 OC Lease Agreements**” means (i) the 16 OC Lease, (ii) the Guaranty dated December 6, 2019 and made by 16 On Center, LLC, an Illinois limited liability company, in favor of Property Owner (the “**16 OC Guaranty**”), and (iii) any and all other substantive agreements that, subject to Section 6.4.21, are entered into from time to time and pertain to the 16 OC Lease.

“**Act**” has the meaning ascribed thereto in the recitals.

“Additional Capital Contributions” has the meaning ascribed thereto in Section 9.1.

“Adjusted Capital Account Deficit” means, with respect to any Member, the deficit balance, if any, in the Member’s Capital Account, as of a specified time, after giving effect to the following adjustments:

(a) credit to such Capital Account any amounts that such Member is obligated to restore or deemed obligated to restore pursuant to Treasury Regulations Section 1.704-1(b)(2)(ii)(c) and the penultimate sentences of Treasury Regulations Section 1.704-2(g)(1) and Treasury Regulations Section 1.704-2(i)(5); and

(b) debit to such Capital Account the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“Affiliate” means, with respect to a specified Person, (a) a Person that, directly or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with, the specified Person, (b) any Person that is an officer, director, partner, manager or trustee of, or serves in a similar capacity with respect to, the specified Person or of which the specified Person is an officer, partner, manager or trustee, or with respect to which the specified Person serves in a similar capacity, (c) any Person that directly or indirectly, is the beneficial owner of fifty percent (50%) or more of any class of equity securities of, or otherwise has a substantial beneficial interest in, the specified Person or of which the specified Person has a substantial beneficial interest, or (d) the spouse, issue or parent of the specified Person. Notwithstanding the foregoing, (i) none of the Manager, the Approving Member, any other Member, or any of their respective Affiliates shall be considered an Affiliate of the Company or a Subsidiary of the Company for the purposes of this Agreement, and (ii) each Manager Principal shall be considered an Affiliate of the Manager.

“Affiliate Agreement” means any agreement or contract between the Company or any Subsidiary, on the one hand, and the Manager or any Affiliate of the Manager, on the other hand.

“Agreement” has the meaning ascribed thereto in the preamble.

“Approved Accountants” means PricewaterhouseCoopers LLP, RSM US LLP, or any other firm of certified public accountants selected by the Manager and reasonably approved by Approving Member, to be engaged by the Company to provide accounting and related services to the Company from time to time.

“Approved Budget” has the meaning ascribed thereto in Section 6.3.3.

“Approved Business Plan” has the meaning ascribed thereto in Section 6.3.3.

“Approved Successor” means each of the following Persons: (i) Taiber; (ii) Parker; and (iii) if (1) neither of the preceding Persons is employed by any Affiliate of Polsky (whether directly or indirectly), and (2) Polsky is deceased or has a Disability, then any Affiliate of Polsky.

“Approving Member” means, initially, Skydeck. Thereafter, “Approving Member” shall mean any other Person who becomes the Approving Member in accordance with the terms of this Agreement; provided, however, that so long as Skydeck is a Member, (i) Skydeck may not be removed as Approving Member without its written consent, and (ii) Polsky or an Approved Successor must Control Approving Member. Additionally, the status of Approving Member is not independent of Skydeck’s Interest and may not be delegated or transferred except in connection with a permitted Transfer of Skydeck’s Entire Interest hereunder.

“Available Cash” means and consists of all cash on hand of the Company irrespective of its source, excluding, however, (i) Capital Event Proceeds and (ii) Reserves.

“Bankruptcy Action” means, with respect to any Person, if such Person (a) makes an assignment for the benefit of creditors, (b) files a voluntary petition in bankruptcy, (c) is adjudged bankrupt or insolvent, or has entered against it an order for relief, in any bankruptcy or insolvency proceedings, (d) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, (e) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of this nature, (f) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Person or of all or any substantial part of its properties, or (g) if sixty (60) days after the commencement of any proceeding against the Person seeking reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or if within sixty (60) days after the appointment without such Person’s consent or acquiescence of a trustee, receiver or liquidator of such Person or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within sixty (60) days after the expiration of any such stay, the appointment is not vacated. The foregoing definition is intended to replace and shall supersede and replace the definition of “bankruptcy” set forth in Sections 18-101(1) and 18-304 of the Act.

“Blue Star” means Blue Star Properties, Inc. and any successor thereto or assignee thereof that is Controlled (whether directly or indirectly) by Craig.

“Books and Records” has the meaning ascribed thereto in Section 10.1.

“Budget” has the meaning ascribed thereto in Section 6.3.2.

“Budget Overruns Provision” has the meaning ascribed thereto in Section 6.3.2.

“Business Day” means any day on which commercial banks are authorized to do business and are not required by law or executive order to close in Chicago, Illinois.

“Business of the Company” means the purpose of the Company as described in Section 2.6.1.

“Business Plan” has the meaning ascribed thereto in Section 6.3.1.

“Buy-Out Deposit” has the meaning ascribed thereto in Section 13.1.2.

“Buy-Out Price” has the meaning ascribed thereto in Section 13.1.1.

“Buy-Sell Closing” has the meaning ascribed thereto in Section 13.4.

“Buy-Sell Election Notice” has the meaning ascribed thereto in Section 13.1.2.

“Buy-Sell Election Period” has the meaning ascribed thereto in Section 13.1.2.

“Buy-Sell Escrow Agent” has the meaning ascribed thereto in Section 13.1.2.

“Buy-Sell Non-Triggering Member” has the meaning ascribed thereto in Section 13.1.1.

“Buy-Sell Notice” has the meaning ascribed thereto in Section 13.1.1.

“Buy-Sell Right” has the meaning ascribed thereto in Section 13.1.

“Buy-Sell Triggering Member” has the meaning ascribed thereto in Section 13.1.1.

“Capital Account” means the capital account of a Member maintained in accordance with Section 3.5 hereof.

“Capital Call Notice” has the meaning ascribed thereto in Section 9.1.

“Capital Contribution(s)” means the total amount of any cash and the agreed value of any non-cash property or services contributed to the Company by or on behalf of a Member in accordance with the provisions of this Agreement, including Additional Capital Contributions.

“Capital Event Proceeds” means and consists of the net amount of cash received by the Company from the sale, exchange, transfer, assignment, refinancing, condemnation, casualty loss or other disposition by the Company of its assets outside the ordinary course of business, less (i) the portion thereof disbursed by Manager for the payment of the Company’s debts and expenses and (ii) Reserves. Capital Event Proceeds shall include amounts distributed to the Company as the owner of any Subsidiary to the extent that the amount distributed, in the hands of the distributing entity, is in the nature of Capital Event Proceeds. Amounts released from a Reserve of Capital Event Proceeds shall be treated as Capital Event Proceeds.

“Cash Flow Additional Pref” means, with respect to each Member, an annual return on such Member’s unreturned Capital Contributions equal to four percent (4%) per annum, compounding annually. The Cash Flow Additional Pref shall be in addition to the Preferred Return. The Cash Flow Additional Pref will accrue with respect to each Capital Contribution commencing on the last day of the month on which a Member’s funds (or funds advanced on behalf of such Member) were actually delivered to the Company and ending on the date on which the Company repays such Capital Contribution to the applicable Member in accordance with this Agreement. Notwithstanding the foregoing, the Cash Flow Additional Pref (i) shall apply only to distributions of Available Cash and (ii) shall not apply to, and shall not be due in connection with, distributions of Capital Event Proceeds.

“Certificate of Formation” has the meaning ascribed thereto in the recitals, as the same may be amended from time to time.

“Chicago Court” has the meaning ascribed thereto in Section 16.9.

“Code” means the Internal Revenue Code of 1986, as amended (or any corresponding provision or provisions of any succeeding law).

“Company” has the meaning ascribed thereto in the recitals.

“Company Property” means any direct or indirect assets of the Company, whether tangible or intangible, or any portion thereof, including the Property and the Company’s ownership interest in any Subsidiary.

“Confidential Information” has the meaning ascribed thereto in Section 16.16.1.

“Construction Cost Overrun” means with respect to any construction project at the Property that is performed by Blue Star Properties, Inc. or another GC that is a Controlled Affiliate of Blue Star, Craig, Matt, Nate, or the Manager, an overrun in the total cost of such construction project in comparison to the total amount budgeted (including contingencies and allowances) for such construction project in the then-current Budget. Construction Cost Overruns shall be calculated in the aggregate. Additionally, any savings from a construction project that either is being concurrently performed or was completed during the immediately preceding twelve (12) months shall be applied to (and shall reduce) the Construction Cost Overruns from the construction project at hand.

“Control”, or any derivation thereof, when used with respect to a specified Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person; provided that a Person may still have control of a specified Person, if it satisfies the foregoing requirements, notwithstanding that one or more third parties may have rights to participate in major decisions of the specified Person.

“Control and Ownership Requirement” has the meaning ascribed thereto in Section 15.2.1.

“Controlled Affiliate” means with respect to a Person, any Affiliate of such Person that such Person Controls.

“Cure Notice” has the meaning ascribed thereto in Section 6.9.1.

“Cure Period” means, with respect to any defaulting party, a period of thirty (30) calendar days after such defaulting party (i) receives written notice of its default from a non-defaulting party or (ii) obtains actual knowledge of its default from any source whatsoever; provided, however, that if such breach cannot be cured by the payment of money, can be otherwise cured but cannot reasonably be cured within such thirty (30)-day period, the period shall continue, if such defaulting party commences to cure the breach within such thirty (30)-day period, for so long as such defaulting party diligently prosecutes the cure to completion up to a maximum of the lesser of (a) ninety (90) calendar days, or (b) if applicable, the period of time allowed for such performance under any material agreement affecting the Property, including without limitation the Loan Documents, if any. Notwithstanding the foregoing or anything to the contrary contained elsewhere herein, any Cure Period shall expire on such earlier date as the cure period with respect to such default expires under the applicable material agreement affecting the Property, including the Loan Documents, it being agreed that (a) if any Loan Document or other material agreement does not provide any cure period with respect to such default, then the defaulting party hereunder shall not be entitled to any Cure Period hereunder, and references to the Cure Period shall be deemed not to apply, and (b) if any Loan Document or other material agreement provides for a shorter cure period with respect to a default than the Cure Period hereunder would, then the Cure Period hereunder shall be shortened so that it coincides with the cure period under the Loan Document or other material agreement.

“Declining Member” has the meaning ascribed thereto in Section 9.2.

“Declining Member Shortfall” has the meaning ascribed thereto in Section 9.2.

“Default Allegation Notice” has the meaning ascribed thereto in Section 6.9.1.

“Default Purchase Notice” has the meaning ascribed thereto in Section 6.9.4(a).

“Default Response Notice” has the meaning ascribed thereto in Section 6.9.1.

“Depreciation” means, for each Fiscal Year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to Company Property for such Fiscal Year or other period for U.S. federal income tax purposes as determined by the Manager; provided, however, that if the Gross Asset Value of Company Property differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year or other period, Depreciation shall be determined by the Manager in accordance with Regulations Section 1.704-1(b)(2)(iv)(g) and 1.704-3(c).

“Disability” means, with respect to any individual, such individual has become disabled or is otherwise unable to be actively involved in the operations of the Company for a period of more than one hundred eighty (180) consecutive days or is adjudicated mentally incompetent by a court.

“Dispute Notice” has the meaning ascribed thereto in Section 6.9.1.

“Dissolution” means, with reference to the Company, the earlier to occur of the date upon which the Company (a) is terminated under the Act, or any similar provision enacted in lieu thereof or (b) is otherwise dissolved pursuant to Section 11.1.

“Distributions” or **“distributions”** means any distributions of Available Cash or Capital Event Proceeds received by the applicable Member from the Company; provided, however, that any distributions to any Non-Declining Member in repayment of any Member Loan shall not constitute Distributions.

“Emergency” has the meaning ascribed thereto in Section 6.3.2.

“Entire Interest” means, with respect to any Member, such Member’s Interest and any other liability of the Company to said Member for which the Member would receive payment under Section 11.4 if the Company were liquidated.

“Existing Operating Agreement” has the meaning ascribed thereto in the recitals.

“Filing Date” has the meaning ascribed thereto in the recitals.

“Fiscal Year” means the taxable year of the Company, which, except as provided by the Code, shall begin on January 1 and end on December 31, or such other taxable year as required by Section 706(b) of the Code.

“Forced Sale Deposit” has the meaning ascribed thereto in Section 14.1.2.

“Forced Sale Election Notice” has the meaning ascribed thereto in Section 14.1.2.

“Forced Sale Election Period” has the meaning ascribed thereto in Section 14.1.2.

“Forced Sale Notice” has the meaning ascribed thereto in Section 14.1.1.

“Forced Sale Price” has the meaning ascribed thereto in Section 14.1.1.

“Forced Sale Purchase Price” has the meaning ascribed thereto in Section 14.1.3.

“Forced Sale Right” has the meaning ascribed thereto in Section 14.1.1.

“FS Closing Date” has the meaning ascribed thereto in Section 14.2.1.

“FS Non-Triggering Member” has the meaning ascribed thereto in Section 14.1.1.

“FS Triggering Member” has the meaning ascribed thereto in Section 14.1.1.

“GAAP” means U.S. generally accepted accounting principles, consistently applied.

“GC” means any general contractor for work performed at the Property, as such GC shall be selected from time to time in accordance with the terms of this Agreement. As of the date hereof, the GC is Blue Star Properties, Inc., which is a Controlled Affiliate of the Manager.

“GC Agreement” means subject to Sections 6.4.16 and 6.4.17, any contract to perform general contracting work at the Property between the Company or a Subsidiary, as owner, and the GC, as such contract

may be amended, modified, supplemented, and/or restated from time to time in accordance with the terms of Sections 6.4.16 and 6.4.17 below.

“**Gross Asset Value**” means, with respect to any asset, the asset’s adjusted basis for federal income tax purposes, except as follows:

(a) the initial Gross Asset Value of any asset contributed by a Member to the Company shall be the fair market value of such asset as determined by the Manager and approved by Approving Member, which approval shall not be unreasonably withheld, conditioned, or delayed;

(b) the Gross Asset Value of each Company asset shall be adjusted to equal its respective gross fair market value as determined by the Manager as of the following times: (1) the acquisition of an additional Interest by any new or existing Member in exchange for more than a *de minimis* Capital Contribution; (2) the distribution by the Company to a Member of more than a *de minimis* amount of Company assets as consideration for an Interest; or (3) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (1) and (2) above shall be made only if the Manager determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(c) the Gross Asset Value of any Company asset distributed to any Member shall be the fair market value of such asset on the date of distribution as determined by the Manager and approved by Approving Member, which approval shall not be unreasonably withheld, conditioned, or delayed;

(d) the Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that the Gross Asset Values of Company assets shall not be adjusted pursuant to this clause (d) to the extent the Manager determines that an adjustment pursuant to clause (b) hereof is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this clause (d); and

(e) if the Gross Asset Value of an asset has been determined or adjusted pursuant to clauses (a), (b), or (d) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation deductions taken into account with respect to such asset for purposes of computing the Company’s taxable income.

“**Guaranteed Obligation**” means any liability or other obligation of the Company or any Subsidiary for which a Guarantor has liability to a Lender under a Loan Guaranty, but excluding any such liability or obligation that was caused by a Bad Act (defined in Section 6.12) of the Manager, any Guarantor, or any of their Controlled Affiliates, including any of the Manager Principals.

“**Guarantor**” has the meaning ascribed thereto in Section 6.12.1.

“**Indemnitee**” has the meaning ascribed thereto in Section 12.1.1.

“**Indemnity Obligation**” has the meaning ascribed thereto in Section 12.1.3.

“**Initial Consultant**” has the meaning ascribed thereto in Section 6.9.5.

“**Initial Consultant Meeting**” has the meaning ascribed thereto in Section 6.9.5.

“**Interest**” means an ownership interest in the Company.

“Internal Rate of Return” means, as to any Member, a specified internal rate of return that, when used as a discount rate, causes the sum of the present value of all of the cash outflows (i.e., Distributions received by such Member) to equal the sum of the present value of all of the cash inflows (i.e., Capital Contributions made by such Member) accruing from it.

In determining the Internal Rate of Return, the following shall apply:

(a) All Distribution amounts shall be based on the amount of the Distribution prior to the application of any federal, state or local taxation to Members (including any withholding or deduction requirements).

(b) The Internal Rate of Return calculations shall use the methodology of the XIRR function of the Microsoft Excel 2007 computer program, or its functional equivalent (and shall be calculated on a compounded annual basis).

(c) All Capital Contributions shall be treated as having been contributed to the Company on the last day of the month on which a Member’s funds (or funds advanced on behalf of such Member) were actually delivered to the Company.

(d) All Distributions shall be treated as having been received by the applicable Member on the last day of the month on which such Member actually receives such Distribution.

“Key Principals” means Matthew G. Garrison, an individual (“Matt”), Nathan G. Laurell, an individual (“Nate”), and Craig Golden, an individual (“Craig”).

“Key Principal Change” means the occurrence of any of the following events: (i) none of the Key Principals is living, (ii) none of the Key Principals or the other Manager Principals is actively involved in managing or operating the Sponsor Operating Entity, (iii) none of the Key Principals directly or indirectly Controls Manager, or (iv) none of the Key Principals or the other Manager Principals directly or indirectly Control the Sponsor Operating Entity.

“Lease” means any lease, sublease, license, occupancy agreement or other agreement granting a possessory interest in, or right to use or occupy all or any portion of the Property with any Person, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time in accordance with the terms thereof and the requirements of this Agreement.

“Leasing Agent” means any leasing agent for the Property pursuant to the Leasing Agreement, as such leasing agent shall be selected from time to time in accordance with the terms of this Agreement. As of the date hereof, the Leasing Agent is Sponsor Operating Entity, which is a Controlled Affiliate of the Manager.

“Leasing Agreement” means that certain leasing agency agreement in respect of the Property, to be entered into on the date hereof, between the Company or a Subsidiary, as owner, and Leasing Agent, or any subsequent leasing agency agreement entered into by the Company or any Subsidiary in accordance with the terms of this Agreement.

“Lender” means a lender, its successors and assigns or any other holder, from time to time, of a Loan.

“Liquidator” has the meaning ascribed thereto in Section 11.3.

“Loan” means, initially, a mortgage loan obtained by the Company or a Subsidiary that is secured by the Property. If the Manager or any Affiliate of the Manager (other than the Company or any Subsidiary) has guaranteed such Loan, then Manager and Approving Member agree to use commercially reasonable and good faith efforts to cause each Loan to contain a substitute guarantor provision in which the lender pre-approves

the substitution of all such Manager's Affiliates with an Affiliate of the Approving Member if a substitution occurs in accordance with this Agreement, subject to the lender's approval of the creditworthiness thereof at the time of substitution. Additionally, if any Loan has yield maintenance, Manager shall use good faith efforts to cause such Loan to be assignable without material fee or penalty. Thereafter, "Loan" shall mean any additional or subsequent mortgage loan or other secured or unsecured indebtedness (excluding trade payables) obtained or incurred by the Company or any Subsidiary in accordance with Section 6.4 (including Section 6.4.20).

"**Loan Documents**" mean every loan agreement, promissory note and other evidence of indebtedness evidencing any Loan and all mortgages and security agreements, assignments, financing statements, pledges, collateral security agreements and any other agreements delivered in connection with any Loan, and any replacement, renewal, extension, substitution, addition, supplement, amendment or modification of any of the foregoing in accordance with Section 6.4.

"**Loan Guarant(y)(ies)**" has the meaning ascribed thereto in Section 6.12.1.

"**Major Decisions**" has the meaning ascribed thereto in Section 6.4.

"**Manager**" means, initially, Sponsor. Thereafter, "Manager" shall mean any other Person who becomes the Manager of the Company in accordance with the terms of this Agreement.

"**Manager Event of Default**" means the occurrence of any of the following events:

(a) fraud or misappropriation of Company or Subsidiary funds by the Manager, any of the Manager Principals or any of their Controlled Affiliates, in each case that pertains to this Agreement and/or the Property;

(b) gross negligence or willful misconduct by the Manager or the Manager Principals, in each case that occurs in connection with this Agreement and/or the Property, and has a substantially or materially adverse effect on the Company, any Subsidiary, or the Property;

(c) any breach of this Agreement by Manager (other than with respect to provisions covered by other specific sections of this definition) that has a materially adverse effect on the Company (or any Subsidiary, as applicable) and is not cured within the Cure Period (if and to the extent applicable);

(d) a material default under any Loan Document that is caused by a Bad Act of the Manager, the Manager Principals, or their Controlled Affiliates and is not cured within the Cure Period (if and to the extent applicable); it being understood that, without limiting the foregoing, a breach under any Loan Document shall not constitute a Manager Event of Default to the extent such breach arises out of (a) the Company's lack of sufficient available funds, or (b) the Approving Member's failure to authorize the use of such funds for such purpose, if the Approving Member's authorization is required under this Agreement;

(e) the Manager or any Manager Principal enters a plea of no contest or is convicted of any felony or other crime (whether or not a felony) involving fraud, theft, misappropriation of funds, breach of trust or moral turpitude with respect to the Company, any Subsidiary, or the Property;

(f) the taking of any Bankruptcy Action by the Manager with respect to any Subsidiary, the Company, or the Manager, or the taking of any Bankruptcy Action by all Key Principals;

(g) a Transfer of direct or indirect Interests by, or with respect to, Manager in violation of Article 8 that is not cured within the Cure Period (if and to the extent applicable);

(h) the failure of the Manager to satisfy the Control and Ownership Requirement at any time, and such failure is not cured within the Cure Period (if and to the extent applicable);

(i) the failure of the Manager to notify Approving Member promptly after Manager receives a written notice from a Lender alleging that the Company or any Subsidiary is in default under the Loan, which failure has a substantially or materially adverse effect on the Company, any Subsidiary, or the Property;

(j) any material breach of a representation by Manager written in Article 15, which material breach has a substantially or materially adverse effect on the Company, any Subsidiary, or the Property and is not cured within the Cure Period (if applicable and to the extent applicable); or

(k) the taking of any action, or the engagement in any activity, in violation of Section 6.4 of this Agreement by the Manager or the Manager Principals, which taking or engagement has a substantially or materially adverse effect on the Company, any Subsidiary, or the Property and is not cured within the Cure Period (if applicable and to the extent applicable).

Notwithstanding anything to the contrary above, for purposes of any of the acts or events described in clause (a), (b), (c), (d), or (k) of this definition, such act or event shall not constitute a “Manager Event of Default” if (1) such act or event is the result of an action or inaction of any person other than a Manager Principal, (2) no Manager Principal had any actual knowledge of the occurrence thereof or affirmatively consented to, authorized, or caused such act or event, (3) Notice of such act or event shall have been delivered to the Approving Member promptly after a Manager Principal obtains actual knowledge that such act or event occurred and falls within the definition above, (4) the Manager Principals and the Manager (a) pay over to the Company and/or the Skydeck Group, within fifteen (15) Business Days after delivering the Notice described in clause (3) above, an amount equal to all actual losses, damages and out-of-pocket expenses sustained by the Company and/or the Skydeck Group by virtue thereof (including attorneys’ fees and costs), and (b) agrees to indemnify, defend, and hold harmless the Company, the Subsidiary(ies), and the Members from all future loss, liability, damage, cost or expense (including reasonable attorneys’ fees) by virtue thereof, (5) such default is otherwise cured such that no continuing default exists hereunder or under the Loan Documents, and (6) such person’s employment with the Manager, the Manager Principals and their Controlled Affiliates is permanently terminated.

“Manager Principals” means Matt, Marc Garrison, Max Meyers, Nate, and Craig; provided, however, that if any such individual no longer is an employee, executive, or partner of Matt or Nate (whether directly or indirectly through any Controlled Affiliate), then such individual shall no longer be a “Manager Principal” (except for purposes of satisfying the Control and Ownership Requirement).

“Member Loan” has the meaning ascribed thereto in Section 6.12.2(a) and Section 9.2.

“Members” mean, collectively, all Persons who hold Interests, and any reference to a “Member” shall be to any one of the Members.

“Non-Declining Member” has the meaning ascribed thereto in Section 9.2.

“Non-Ownership Requirements” means that all of the following requirements are met:

(a) none of R2 Companies, Matt, Nate, or any of their Controlled Affiliates owns (whether directly or indirectly) any interest in Blue Star, any GC that is a Controlled Affiliate of Blue Star, any property management company or leasing agency that is a Controlled Affiliate of Blue Star (excluding Sponsor Operating Entity), or 16 OC; and

(b) none of Craig, Blue Star, 16 OC, or any of their Controlled Affiliates owns (whether directly or indirectly) any interest in R2 Companies, any GC that is a Controlled Affiliate of R2 Companies, or any property management company or leasing agency that is a Controlled Affiliate of R2 Companies (excluding Sponsor Operating Entity).

“Notice(s)” has the meaning ascribed thereto in Section 16.4.

“OFAC List” means the list of specially designated nationals and blocked Persons subject to financial sanctions that are maintained by the U.S. Treasury Department, Office of Foreign Development Assets Control, pursuant to applicable law, including trade embargo, economic sanctions or other prohibitions imposed by the Executive Order of the President of the United States. As of the date hereof, the OFAC List is accessible through the internet website www.treas.gov/ofac/downloads/t11sdn.pdf.

“OFAC/Patriot Act Laws” means all anti-money laundering and anti-terrorist laws, regulations, rules, executive orders and/or government guidance, including the reporting, record-keeping and compliance requirements of the Bank Secrecy Act, as amended by the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, Title III of the USA PATRIOT Act, and other authorizing statutes, executive orders and regulations administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury, and related Securities and Exchange Commission or other agency rules and regulations related thereto.

“Parker” has the meaning ascribed thereto in the preamble.

“Partnership Representative” has the meaning ascribed thereto in Section 10.4.

“Percentage Interest” means, initially, the Interests written in **Exhibit B**. With respect to any Member at any time on and following the date hereof, “Percentage Interest” shall mean such Member’s Interest expressed as a percentage, obtained by dividing the Capital Contributions made or deemed made by such Member (whether or not returned) by the Capital Contributions made or deemed made by all Members (whether or not returned), as adjusted from time to time as provided in this Agreement.

“Person” means any individual, corporation, partnership, limited liability company, firm, joint venture, association, joint-stock company, unincorporated organization, trust, governmental or regulatory body, parastatal entity, or other entity.

“Plan Asset Regulation” means U.S. Department of Labor Regulation § 2510.3-101.

“Polksky” means Michael P. Polksky, an individual.

“Pradera” has the meaning ascribed thereto in the preamble.

“Preferred Return” means, with respect to each Member, an annual return on such Member’s unreturned Capital Contributions equal to eight percent (8%) per annum, compounding annually. The Preferred Return will accrue with respect to each Capital Contribution commencing on the last day of the month on which a Member’s funds (or funds advanced on behalf of such Member) were actually delivered to the Company and ending on the date on which the Company repays such Capital Contribution to the applicable Member in accordance with this Agreement.

“Profits” and **“Losses”** means, for any period, an amount equal to the Company’s taxable income, gain or loss for such year or other period, determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, loss or deduction required to be separately stated pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax or otherwise described in Section 705(a)(1)(B) of the Code and not otherwise taken into account shall be added to such taxable income or loss;

(b) Any expenditure of the Company described in Section 705(a)(2)(B) of the Code and non-deductible syndication costs described in Section 709 of the Code and not otherwise taken into account shall be subtracted from such taxable income or loss;

(c) If the Gross Asset Value of any asset differs from its adjusted basis for federal income tax purposes at the beginning of such period, in lieu of depreciation, amortization and other cost recovery deductions, there shall be taken into account Depreciation for such period, and in lieu of a gain or loss resulting from disposition of Company Property and taken into account in computing taxable income or loss, there shall be taken into account gain or loss computed by reference to the Gross Asset Value of such Company Property rather than its adjusted basis for federal income tax purposes; and

(d) Items of income, gain, loss or deduction that are specifically allocated pursuant to Section 4.2 shall not be taken into account in calculating Profits and Losses.

“Prohibited Person” means any Person identified on the OFAC List or any other Person with whom a U.S. Person may not conduct business or transactions by prohibition under Federal law or Executive Order of the President of the United States of America.

“Property” means 1357 N. Elston Ave., Chicago, IL 60642, as more particularly described in **Exhibit A** attached hereto.

“Property Management Agreement” means that certain property management agreement in respect of the Property, to be entered into on the date hereof, between the Company or a Subsidiary, as owner, and Property Manager, or any subsequent property management agreement entered into by the Company or any Subsidiary in accordance with the terms of this Agreement.

“Property Manager” means any property manager for the Property pursuant to the Property Management Agreement, as such property manager shall be selected from time to time in accordance with the terms of this Agreement. As of the date hereof, the Property Manager is Sponsor Operating Entity.

“Property Owner” means 1357 Property Owner, LLC, a Delaware limited liability company.

“Property Valuation” has the meaning ascribed thereto in Section 13.1.1.

“Purchase Agreement” means the Purchase and Sale Agreement dated as of December 29, 2017 between Morton Salt, Inc. and Property Owner.

“R2 Companies” means R2 Companies, LLC and any successor thereto or assignee thereof that is Controlled (whether directly or indirectly) by Matt.

“Recourse Protection Conditions” has the meaning ascribed thereto in Section 6.4.

“Recourse Protection Right” has the meaning ascribed thereto in Section 6.4.

“Reduced Sale Price” has the meaning ascribed thereto in Section 14.4.3.

“Regulatory Allocations” has the meaning ascribed thereto in Section 4.2.4.

“Reserves” means funds set aside by the Manager as reserves in amounts reasonably determined by the Manager, in the Approved Business Plan, the Approved Budget or otherwise, that are necessary or prudent (as reasonably determined by the Manager) for future costs, expenses and payments not likely to be covered out of any other account of the Company or any Subsidiary, including (a) capital expenditures in respect of the Property, (b) escrow or reserve requirements under the Loan Documents, (c) litigation costs, (d) leasing costs (such as landlord’s work, allowances, and commissions) for any and all vacant space and, based on a reasonable estimate of the probability that the existing tenant will not renew its lease, any space that is scheduled to become vacant during the next two (2) years, (e) other expenditures to be made by the Company, including general operating expenses, debt service, and taxes, and (f) working capital.

“Revised Partnership Audit Procedures” means the provisions of Subchapter C of Subtitle A, Chapter 63 of the Code, as amended by P.L. 114-74, the Bipartisan Budget Act of 2015 (collectively with any subsequent amendments thereto, Treasury Regulations promulgated thereunder, and published administrative interpretations thereof) or any similar procedures established by a state, local, or non-U.S. taxing authority.

“Secretary of State” has the meaning ascribed thereto in the recitals.

“Securities Act” means the Securities Act of 1933, as amended.

“Sell-Out Deposit” has the meaning ascribed thereto in Section 13.1.3.

“Sell-Out Price” has the meaning ascribed thereto in Section 13.1.1.

“Skydeck” has the meaning ascribed thereto in the preamble.

“Skydeck Group” has the meaning ascribed thereto in the preamble.

“Special Distribution Provisions” or **“Promote Distributions”** means the distributions to the Manager pursuant to Section 5.1.3(b).

“Sponsor” has the meaning ascribed thereto in the preamble.

“Sponsor Operating Entity” means 1357 Service Provider, LLC, an Illinois limited liability company, which is a Controlled Affiliate of the Manager.

“Standard of Care” means the usual and customary standard of care, skill, prudence and diligence to be employed by a Person who has decision-making authority or approval rights under this Agreement, in each case in accordance with the exercise of sound and prudent business practices in connection with the administration and management of the Company, its Subsidiaries, and their assets in accordance with the goals of the Company and its Subsidiaries as set forth in the Approved Business Plan and Approved Budget, and in a manner consistent with the manner that real estate investment companies who own properties that are comparable to the Property and whose purpose is similar to the Business of the Company would own, operate, and manage its property. The Standard of Care shall include the implied contractual covenant of good faith and fair dealing.

“Subsidiary” means, initially, Property Owner, it being agreed that the Property Owner shall be owned entirely by the Company, which shall be the sole member and manager of the Property Owner. Thereafter, “Subsidiary” shall mean any entity or entities that own or owns the Property or any portion thereof and is Controlled, whether directly or indirectly, by the Company, but only if, for the avoidance of doubt, the creation of such Subsidiary has been approved by the Approving Member in accordance with Section 6.4 and provided same does not violate the terms of the Loan Documents.

“Taiber” means Jonathan Taiber, an individual.

“**Third Consultant**” has the meaning ascribed thereto in Section 6.9.5.

“**Transfer**” has the meaning ascribed thereto in Section 8.1.1.

“**Treasury Regulations**” means the Treasury Regulations, including temporary regulations, promulgated under the Code by the Internal Revenue Service.

“**U.S.**” means the United States of America.

1.2 **Construction.** Words used herein, regardless of the number or any gender used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires, and, as used herein, unless the context clearly requires otherwise, the words “hereof,” “herein,” and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provisions hereof. References herein to any Article, Section or Exhibit shall be to an Article, a Section or an Exhibit, as the case may be, hereof unless otherwise specifically provided. The word “or” is not exclusive. The use herein of the word “include” or “including”, when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.

ARTICLE 2

THE COMPANY AND ITS BUSINESS

2.1 **Formation of Company; Admission of Members.** The Company was formed pursuant to the provisions of the Act by executing and delivering the Certificate of Formation to the Secretary of State in accordance with and pursuant to the Act. The Members hereby confirm the formation of the Company as a limited liability company pursuant to the Act and that this Agreement shall constitute the operating agreement of the Company. The Manager shall take such actions as may from time to time be necessary or appropriate under the laws of the State of Delaware with respect to the formation, operation and continued good standing of the Company as a limited liability company. The Members shall execute, file and record any amendments to the Certificate of Formation and any other documents that, in the reasonable opinion of the Manager, may be required or appropriate under the laws of the State of Delaware with respect to the formation, operation and continued good standing of the Company as a limited liability company. The rights and liabilities of the Members, the management of the affairs of the Company and the conduct of its business shall be as provided in the Act, except as herein otherwise expressly provided. The existence of the Company as a separate legal entity shall continue until cancellation of the Certificate of Formation as provided in the Act.

2.2 **Name.** The name of the Company is “1357 Elston JV, LLC”. The Manager shall operate the Business of the Company under such name or use such other or additional names as selected by the Manager and reasonably approved by the Approving Member.

2.3 **Principal Office.** The Company shall maintain its principal place of business at % R2 Companies, LLC, 1200 N. North Branch St., #200, Chicago, IL 60642, or at such other place as the Manager may determine from time to time.

2.4 **Registered Office and Registered Agent.** The address of the registered office of the Company in the State of Delaware is National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Kent County, DE 19904. The address of the registered agent of the Company for service of process on the Company in the State of Delaware is National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover,

Kent County, DE 19904. The name of its registered agent at such address is National Registered Agents, Inc. The registered office and registered agent may be changed from time to time by filing the address of the new registered office and/or the name of the new registered agent with the Secretary of State pursuant to the Act.

2.5 **Term.** The existence of the Company commenced on the date of the filing of the Certificate of Formation with the Secretary of State and shall continue until the Company is terminated or dissolved sooner, in accordance with the provisions of this Agreement or by law.

2.6 **Business and Purpose of the Company.**

2.6.1 The business purpose of the Company (the “**Business of the Company**”) is limited solely to engaging in the following activities:

(a) acquiring and/or directly or indirectly causing any Subsidiary to acquire all or any portion of the Property and to, directly or indirectly, own, hold, lease, improve, renovate, develop, redevelop, finance, sell, transfer, exchange, operate and manage the Property; and

(b) transacting any and all lawful business for which a limited liability company may be organized under the Act that is incident, necessary or appropriate to accomplish the foregoing including, contracting for necessary or desirable services of attorneys, accountants and other professionals.

2.6.2 The Company shall not commingle its funds with those of any Affiliate or any other entity. Funds and other assets of the Company shall be separately identified and segregated. All of the Company’s assets shall at all times be held by or on behalf of the Company, and, if held on behalf of the Company by another entity, shall at all times be kept identifiable (in accordance with customary usages) as assets owned by the Company. The Company shall maintain its own separate bank accounts, payroll and books of account. Notwithstanding the foregoing, the Company may directly pay (or cause to be paid) all costs and expenses incurred by any Subsidiary in accordance with the Approved Budget, Approved Business Plan and/or this Agreement.

2.6.3 The Company shall pay from its own assets (including contributions by the Members) all obligations of any kind incurred by the Company.

2.6.4 The Company shall take all appropriate action necessary to ensure its existence as a limited liability company in good standing under the laws of the State of Delaware and shall otherwise comply with all formalities required by the Act.

2.6.5 The Company shall at all times hold itself out to the public (including any Affiliate’s creditors) as a separate and distinct entity operating under the Company’s own name, and the Company shall act solely in its own name and through its own authorized agents, and the Company shall correct any known misunderstanding regarding the Company’s status as a separate and distinct entity.

2.7 **Ownership and Management of Subsidiaries.** The parties hereto acknowledge that in carrying out the purposes and powers of the Company described in Section 2.6, it may be necessary or desirable to directly or indirectly cause any Subsidiary to take such action, including executing and delivering agreements or documents in such Subsidiary’s name. The provisions of this Agreement regarding the management and governance of the Company shall also apply to the management and governance of the Subsidiaries, whether the Subsidiaries are managed or controlled directly or indirectly by the Company as a member, partner, stockholder or otherwise. Any action to be taken by any such Subsidiary shall be subject to the same rights and limitations granted to and imposed on the Members under this Agreement.

ARTICLE 3

MEMBERS AND CLOSING CAPITAL CONTRIBUTIONS

3.1 **Names and Addresses of Current Members.** The addresses of the Members who are Members on the date hereof are written in Section 16.4.

3.2 **Initial Capital Contributions.** It is acknowledged that as of the date hereof, each Member has made a Capital Contribution in the amount of money or property set forth in **Exhibit B** attached hereto.

3.3 **Additional Contributions.** Upon the making (or deemed making) of any Capital Contributions (including pursuant to Article 9), the Manager shall update the Books and Records of the Company to reflect such Capital Contributions. Except as shall be expressly set forth in this Agreement, no Member shall be required or permitted to (a) make any Additional Capital Contributions, (b) make any loan to the Company or any Subsidiary, or (c) cause to be loaned to such Member any money or other assets of the Company or any Subsidiary.

3.4 **Rights with Respect to Capital.**

3.4.1 **Return of Capital Contribution.** Except as expressly provided in this Agreement, no Member will have the right: (a) to demand a withdrawal, reduction, or return of its Capital Contribution; (b) to demand property, other than cash, in connection with any distribution by the Company to the Members; (c) to bring an action for partition against the Company or any Subsidiary; or (d) to receive any priority over any other Member in connection with any distribution by the Company to the Members.

3.4.2 **No Interest on Capital Contributions.** Except as expressly provided in this Agreement, no Capital Contribution of any Member shall bear interest or otherwise entitle the contributing Member to any compensation for use of its Capital Contribution.

3.4.3 **Credit to Capital Account.** Except as otherwise specified herein, each Capital Contribution by a Member pursuant to this Agreement shall be credited to the Capital Account of that Member as of the date such Capital Contribution is received by the Company from the Member in immediately available funds.

3.5 **Capital Accounts.**

3.5.1 **Maintenance of Capital Accounts.** A Capital Account shall be maintained for each Member in accordance with Section 704(b) of the Code and Treasury Regulations Sections 1.704-1(b) and 1.704-2. Without limiting the generality of the foregoing, each Member's Capital Account shall be increased by: (i) the amount of such Member's additional Capital Contributions (if any) to the Company and (ii) the amount of any profit, income and gain allocated to such Member pursuant to the provisions hereof. Each Member's Capital Account shall be decreased by: (i) the amount of any losses, deductions and costs allocated to such Member pursuant to the provisions hereof and (ii) the amount of all distributions to such Member including the fair market value of assets distributed (net of liabilities securing such distributed assets that such Member is considered to assume or take subject to) to such Member pursuant to the provisions hereof. As of the date hereof, each Member's Capital Account shall be proportionate to its total Capital Contributions as of the date hereof (the amount of which is indicated in **Exhibit B**).

3.5.2 **Successor to Capital Accounts.** If all or a portion of a Member's Interest is sold, assigned or otherwise transferred in accordance with the terms of this Agreement, then the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Interest.

3.5.3 Administration of Capital Accounts. This Section 3.5.3 and other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 704(b) of the Code and the Treasury Regulations promulgated thereunder and shall be interpreted and applied in a manner consistent with such provisions. If the Manager reasonably determines that it is prudent to modify the manner in which the Capital Accounts or any charges or credits thereto are computed in order to comply with such provisions, then subject to the Approving Member's prior approval (which shall not be unreasonably withheld, conditioned, or delayed), the Manager may make such modification, but only if it is not likely to have a material effect on the amounts of distributions to any Member pursuant to Section 5.1 or pursuant to Section 11.4 upon the dissolution of the Company.

3.5.4 Repayment of Capital Accounts. Notwithstanding any other provision of this Agreement to the contrary, no Member shall be required or obligated to repay to the Company, any Member or any creditor of the Company any portion of any deficit balance in such Member's Capital Account.

ARTICLE 4

ALLOCATION OF PROFITS AND LOSSES

4.1 Allocations of Profits and Losses. After the application of Section 4.2, Profits and Losses for any taxable year, or portion thereof, shall be allocated among the Members in a manner such that the Capital Account of each Member, immediately after making such allocation, and after taking into account actual distributions made during such taxable year, or portion thereof, is, as nearly as possible, equal (proportionately) to (i) the distributions that would be made to such Member pursuant to Section 11.4 hereof if the Company were dissolved, its affairs wound up and its assets sold for cash equal to their Gross Asset Value, all Company liabilities were satisfied (limited with respect to each nonrecourse liability to the Gross Asset Value of the assets securing such liability) and the net assets of the Company were distributed in accordance with Section 11.4 to the Members immediately after making such allocation, minus (ii) such Member's share of partnership minimum gain and partner nonrecourse debt minimum gain determined pursuant to Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), computed immediately prior to the hypothetical sale of assets; provided, however, that in applying this Section 4.1, any allocations of Profits or Losses that are necessary to account for any change in the amounts that would be distributable under Section 11.4 upon a deemed liquidation as described in clause (i) as of the date of, and resulting from, any increase in Non-Declining Member's Percentage Interest, and any decrease in a Declining Member's Percentage Interest, under Section 9.3 or any other section of this Agreement will be made only in the taxable year(s) in which the Company dissolves pursuant to Section 11.1, and in such year(s) such allocation may include items comprising Profits or Losses (including items of gross income). Subject to the other provisions of this Article 4, an allocation to a Member of a share of Profit or Loss shall be treated as an allocation of the same share of each item of income, gain, loss or deduction that is taken into account in computing Profit or Loss.

4.2 Special Allocations.

4.2.1 Notwithstanding any other provision of this Agreement, (i) "partner nonrecourse deductions" (as defined in Treasury Regulations Section 1.704-2(i)), if any, of the Company shall be allocated for each period to the Member that bears the economic risk of loss within the meaning of Treasury Regulations Section 1.704-2(i), and (ii) "nonrecourse deductions" (as defined in Treasury Regulations Section 1.704-2(b)) and "excess nonrecourse liabilities" (as defined in Treasury Regulations Section 1.752-3(a)), if any, of the Company shall be allocated to the Members in accordance with their respective Percentage Interests.

4.2.2 This Agreement shall be deemed to include "qualified income offset," "minimum gain chargeback" and "partner nonrecourse debt minimum gain chargeback" provisions within the meaning of Treasury Regulations under Section 704(b) of the Code. Accordingly, notwithstanding any other provision of

this Agreement, items of gross income shall be allocated to the Members on a priority basis to the extent and in the manner required by such provisions.

4.2.3 To the extent that Losses or items of loss or deduction otherwise allocable to a Member hereunder would cause such Member to have an Adjusted Capital Account Deficit as of the end of the taxable year to which such Losses, or items of loss or deduction, relate (after taking into account the allocation of all items of income and gain for such taxable period), such Losses, or items of loss or deduction, shall not be allocated to such Member and instead shall be allocated to the Members in accordance with Section 4.1 as if such Member were not a Member.

4.2.4 Any allocations required to be made pursuant to Section 4.2.1 through Section 4.2.3 (the “**Regulatory Allocations**”) (other than allocations, the effects of which are likely to be offset in the future by other special allocations) shall be taken into account, to the extent permitted by the Treasury Regulations, in computing subsequent allocations of income, gain, loss or deduction pursuant to Section 4.1 so that the net amount of any items so allocated and all other items allocated to each Member shall, to the extent possible, be equal to the amount that would have been allocated to each Member pursuant to Section 4.1 had such Regulatory Allocations under this Section 4.2 not occurred.

4.2.5 It is intended that prior to a distribution of the proceeds from a liquidation of the Company pursuant to Section 11.4 hereof, the positive Capital Account balance of each Member shall be equal to the amount that such Member is entitled to receive pursuant to Section 11.4 hereof. Accordingly, notwithstanding anything to the contrary in this Article 4, to the extent permissible under Sections 704(b) of the Code and the Treasury Regulations promulgated thereunder, Profits and Losses and, if necessary, items of gross income and gross deductions, of the Company for the year of liquidation of the Company (or, if earlier, the year in which all or substantially all of the Company’s assets are sold, transferred or disposed of) shall be allocated among the Members so as to bring the positive Capital Account balance of each Member as close as possible to the amount that such Member would receive if the Company were liquidated and all the proceeds were distributed in accordance with Section 11.4.

4.3 **Tax Allocations**

4.3.1 **Tax Allocations**. Items of income, gain, deduction and loss determined for income tax purposes shall be allocated, to the extent possible and except as otherwise provided herein, in the same proportions as corresponding items that enter into the calculation of Profits and Losses.

4.3.2 **Code Section 704(c)**. In accordance with Code Section 704(c) and the Treasury Regulations promulgated thereunder, income, gain, loss, deduction and credit with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value. In the event the Gross Asset Value of any Company property is adjusted pursuant to the definition of Gross Asset Value, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take into account any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Treasury Regulations promulgated thereunder. Any elections or other decisions relating to such allocations shall be made by the Manager.

4.3.3 The provisions of this Article 4 (and other related provisions in this Agreement) pertaining to the allocation of items of Company income, gain, loss, deductions, and credits shall be interpreted consistently with the Treasury Regulations, and to the extent unintentionally inconsistent with such Treasury Regulations, shall be deemed to be modified to the extent necessary to make such provisions consistent with the Treasury Regulations.

4.4 Withholding Taxes.

4.4.1 Authority to Withhold; Treatment of Withheld Tax. Notwithstanding any other provision of this Agreement, each Member hereby authorizes the Company to withhold and to pay over, or otherwise pay, any withholding or other taxes payable by the Company or any of its Affiliates (pursuant to the Code or any provision of United States federal, state or local or non-United States tax law) with respect to such Member or as a result of such Member's participation in the Company. If and to the extent that the Company shall be required to withhold or pay any such withholding or other taxes, such Member shall be deemed for all purposes of this Agreement to have received a payment from the Company as of the time such withholding or other tax is required to be paid, which payment shall be deemed to be a distribution pursuant to Section 5.1 with respect to such Member's Interest to the extent that such Member (or any successor to such Member's Interest) would have received a distribution but for such withholding. To the extent that the aggregate of such payments for any period exceeds the distributions that such Member would have received for such period but for such withholding, the Manager shall notify such Member as to the amount of such excess and such Member shall make a prompt payment to the Company of such amount by wire transfer of immediately available U.S. dollars.

4.4.2 Withholding from Distributions of Property. If the Company makes a distribution in kind and such distribution is subject to withholding or other taxes payable by the Company on behalf of any Member, such Member shall make a prompt payment to the Company of the amount required to be withheld.

4.5 Income Tax Reporting. Each Member is aware of the income tax consequences of the allocations made by this Article 4 and hereby agrees to be bound by the provisions of Article 4 in reporting such Member's share of Company income and loss for federal and state income tax purposes.

ARTICLE 5

DISTRIBUTIONS; REPAYMENT OF MEMBER LOANS

5.1 Distributions.

5.1.1 Available Cash. Except as provided in Section 5.1.3 and Section 5.2, Available Cash shall be distributed to the Members from time to time (as determined by the Manager) as written below.

- (1) First, to the Members until they have received all of their accrued but outstanding Preferred Return. Distributions among the Members in accordance with this clause (1) shall be proportionate to the amounts then due to them.
- (2) Second, to the Members until they have received all of their accrued but outstanding Cash Flow Additional Pref. Distributions among the Members in accordance with this clause (2) shall be proportionate to the amounts then due to them.
- (3) Thereafter, *pari passu*, (a) eighty percent (80%) to the Members in proportion to their respective Percentage Interests, and (b) twenty percent (20%) to Sponsor.

5.1.2 Capital Event Proceeds. Except as provided in Section 5.1.3 and Section 5.2, Capital Event Proceeds shall be distributed to the Members within a reasonable period of time following the event giving rise to such Capital Event Proceeds.

- (1) First, to the Members until they have received all of their accrued but outstanding Preferred Return. Distributions among the Members in accordance with this clause (1) shall be proportionate to the amounts then due to them.
- (2) Second, *pari passu* and *pro rata* to the Members in accordance with their respective Percentage Interests until all of their respective Capital Contributions have been returned.
- (3) Third, *pari passu*, (a) eighty percent (80%) to the Members in proportion to their respective Percentage Interests, and (b) twenty percent (20%) to Sponsor until the Skydeck Group has received a twelve percent (12%) Internal Rate of Return from any and all distributions that it has received as of such time.
- (4) Fourth, *pari passu*, (a) seventy percent (70%) to the Members in proportion to their respective Percentage Interests, and (b) thirty percent (30%) to Sponsor until the Skydeck Group has received a twenty-five percent (25%) Internal Rate of Return from any and all distributions that it has received as of such time.
- (5) Thereafter, *pari passu*, (a) fifty percent (50%) to the Members in proportion to their respective Percentage Interests, and (b) fifty percent (50%) to Sponsor.

5.1.3 **Declining Members.** Notwithstanding anything to the contrary in Section 5.1.1 or Section 5.1.2, the amount of any Available Cash or Capital Event Proceeds that is distributable to (and would but for this provision otherwise be paid to) any Declining Member under Section 5.1.1 or Section 5.1.2 shall instead be paid to any Non-Declining Member in repayment in whole or in part as the case may be of any Member Loans made by such Non-Declining Member to such Declining Member, together with any accrued and unpaid interest thereon, to be applied first to accrued and unpaid interest thereon and then to the principal balance thereof, in the order in which such Member Loans were made, so that the Member Loan longest outstanding is fully repaid prior to the payment of interest or principal on any Member Loan made after the date on which the longest outstanding Member Loan was made. Any such payment that would otherwise be distributed hereunder to a Declining Member that is made to the Non-Declining Member who has made a Member Loan shall be treated for all purposes of this Agreement as having been distributed to the Declining Member.

5.2 **Distributions upon Dissolution.** Amounts distributed in Dissolution of the Company shall be distributed by the Manager in accordance with Section 11.4 of this Agreement.

5.3 **Effect of Transfers.** Distributions with respect to an Interest shall be made to the Person reflected on the Books and Records of the Company as owning that Interest on the date of the distribution.

ARTICLE 6

MANAGEMENT

6.1 **Management of the Company.** Subject to the terms and provisions of this Agreement, the Business of the Company shall be managed by the Manager. Manager is hereby designated as the sole Manager of the Company pursuant to Sections 18-101(10) and 18-401 of the Act, subject to all limitations written in this Agreement, and shall operate the Company in accordance with the Approved Business Plan and Approved Budget, and any Loan Documents, subject to the terms hereof. The Manager shall have such rights, duties and

powers as are specified in this Agreement or, unless expressly provided to the contrary in this Agreement, as are conferred upon a “manager” pursuant to the Act. The Manager shall act in accordance with the Standard of Care; shall devote such time and attention as shall be appropriate to manage and supervise the Business of the Company properly and efficiently; and shall take such actions as shall be prudent and appropriate to carry out its obligations under this Agreement in accordance with the Standard of Care. The Manager shall be fully protected in discharging the Manager’s duties in relying upon the information, opinions, reports or statements by any other Member, or agents, or by any other Person, as to matters the Manager reasonably believes are within the other Person’s professional or expert competence and who has been selected with reasonable care by, or on behalf of, the Company or the Subsidiaries, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, or losses of the Company or the Subsidiaries, or any other facts pertinent to the existence and amount of assets from which Distributions to Members might properly be paid.

6.2 **Designation and Authority of the Manager**

6.2.1 Subject to the restrictions expressly set forth below, the management and administration of the Company and its Subsidiaries shall be the obligation and responsibility of the Manager, who shall have all rights and powers as are necessary or advisable for the management and administration of the business and affairs of the Company and the Subsidiaries. Notwithstanding anything to the contrary in this Agreement, any and all Major Decisions must be made in accordance with Section 6.4.

6.2.2 Except with the approval of the Approving Member, and except as provided in this Agreement or set forth in the applicable Affiliate Agreements, the Manager may not delegate any of its duties as the Manager hereunder, and may not appoint, employ or contract with any of its Affiliates (and may not cause any of the foregoing to occur) for the transaction of the Company’s and its Subsidiaries’ business in connection with the Property; provided that nothing herein shall prohibit the Manager from causing its Affiliates to enter into and perform the Property Management Agreement, the Leasing Agreement, or any GC Agreement, or to prohibit the Manager from otherwise consulting with and receiving advice from its Affiliates. No such delegation shall relieve the Manager from responsibility for performance of its duties hereunder. The Manager shall diligently keep the Approving Member reasonably apprised of the current state of affairs of the Company and its Subsidiaries on an on-going basis, including promptly providing to the Approving Member a copy of any materially important documents pertaining to the Property.

6.2.3 Except as otherwise provided herein or in any Affiliate Agreement that has been approved by the Approving Member as required hereunder, none of the Manager or the Manager’s Affiliates shall receive compensation for their services to the Company and its Subsidiaries.

6.2.4 In connection with the duties of the Manager set forth in Section 6.2.1, but subject in all cases to (i) the provisions of Section 6.4 and the Approved Business Plan and Approved Budget, and (ii) the Company having sufficient available funds (and the Approving Member, to the extent its approval is required under this Agreement, authorizing the use of such funds for such purpose), the Manager shall have the duty, right, power, and authority, at such times as the Manager shall determine to do, to permit or cause the Company for itself or on behalf of each Subsidiary to do any of the following:

(a) prepare or supervise the preparation of the Business Plan and the Budget, any appropriate budgets for the development or renovation of the Property or the operations of the Property and any Subsidiary, subject to the approval of the Approving Member as provided in Section 6.3 hereof;

(b) use commercially reasonable and good faith efforts to manage the Company and each Subsidiary in accordance with the Approved Business Plan and Approved Budget then in effect;

(c) oversee and supervise the Property Manager in connection with (i) all existing contracts and agreements, and renewals thereof on commercially reasonable terms and (ii) the making of new or additional contracts and agreements for electricity, gas, telephone, cleaning, refuse disposal, vermin extermination and for any other utilities or services which the Manager may consider advisable in the exercise of its reasonable discretion, but in each case of clauses (i) and (ii) above, except under circumstances which the Manager considers in the exercise of its reasonable judgment to constitute an Emergency, only in substantial accordance with the current Approved Business Plan and the Approved Budget;

(d) oversee and supervise the making of (i) all repairs and replacements as provided or permitted by the then-current current Budget and Business Plan, and (ii) all other material repairs and replacements approved by the Approving Member or made under circumstances which the Manager considers in the exercise of its reasonable judgment to constitute an Emergency, in each case to the extent there exists sufficient available Company and Subsidiary funds in order to pay for the cost of such repairs and replacements;

(e) oversee the collection of all revenues, rents, additional rents, percentage rents, escalations, pass-throughs, overages, fees and income from the Property;

(f) oversee and supervise all persons employed on a full- or part-time basis at the Property or contractors working at the Property pursuant to the Approved Business Plan and the Approved Budget then in effect;

(g) deliver to the Approving Member, reasonably promptly upon receipt thereof, a copy of all material notices or statements received from any governmental agency;

(h) use commercially reasonable and good faith efforts to arrange for the Property's compliance in all material respects with all present and future laws, ordinances, orders, rules and regulations of all federal, state and local governmental and quasi-governmental bodies, boards, commissions and agencies having jurisdiction over the Property, to the extent compliance therewith is within the scope of the Manager's authority under this Agreement and there exists sufficient available Company and Subsidiary funds in order to pay for the cost of such compliance;

(i) review any and all insurance of any kind or nature including, but not limited to, property damage (including fire, acts of terrorism and all other risks), theft, public liability, loss of rents and business interruption and workmen's compensation insurance obtained and paid for by the Company or any Subsidiary in connection with the Property. Subject to the availability of sufficient Company and/or Subsidiary funds, the Manager shall have the responsibility for the placement and maintenance of all insurance for the Property required pursuant to the Loan Documents;

(j) as and when appropriate in the Manager's discretion, retain service professionals necessary to provide services with respect to the Property;

(k) use commercially reasonable and good faith efforts to arrange for the Company's compliance with all of the provisions of any Loan Documents, to the extent compliance therewith is within the scope of the Manager's authority under this Agreement and there exists sufficient available Company and Subsidiary funds in order to pay for the cost of such compliance;

(l) to the extent that there are excess funds of the Company or any Subsidiary which the Manager determines are not then required in connection with the Business of the Company, temporarily invest or cause to be invested such excess funds in any permitted investment under any Loan Documents and in a manner consistent with the Approved Business Plan and the Approved Budget;

(m) subject to the availability of sufficient Company and/or Subsidiary funds, prosecute, protect, defend and settle or cause to be prosecuted, protected, defended and settled all Company and Subsidiary rights, including rights and title to Company Property;

(n) use commercially reasonable and good faith efforts to obtain a Loan and any and all other necessary financing required to carry out the purposes of the Company; and

(o) enter into, execute, amend, modify, supplement, acknowledge and deliver any and all contracts (including construction contracts and brokerage agreements), agreements, licenses, leases, listing agreements, or other instruments necessary, proper, or desirable to carry out the Business of the Company, to the extent within the scope of the Manager's authority under this Agreement.

6.3 Preparation of Business Plan and Budget.

6.3.1 Business Plan. The Manager, on an annual basis and in connection with the management of the operations of the Company and the Subsidiaries, shall prepare a business plan for the operation and management of the Property during the next Fiscal Year (the "**Business Plan**"), which shall include a projected business plan for the following four (4) Fiscal Years as well. The Business Plan shall be in substantial conformity to the form approved by the Approving Member and attached hereto as **Exhibit C**. The Business Plan shall be prepared by the Manager and shall be subject to the approval of the Approving Member (as provided in Section 6.3.3 below). Once approved by the Approving Member, the Business Plan shall not be revised in any material respect without the approval of the Approving Member pursuant to Section 6.3.3 below.

6.3.2 Budget. The Manager, on an annual basis and in connection with the management of the operations of the Company and the Subsidiaries, shall prepare a reasonably detailed estimated budget for the Property and the operations and renovation thereof (including Reserves) during the next Fiscal Year (collectively, the "**Budget**"), which shall include a projected budget for the following two (2) Fiscal Years as well. The Budget shall be in substantial conformity to the form approved by Approving Member and attached hereto as **Exhibit C**. The Budget will be prepared on a line-item basis, which sets forth the estimated costs and expenses to be incurred by the Company and the Subsidiaries in connection with the operation and management of the Property for each calendar month in the next ensuing Fiscal Year as well as a total budget for such Fiscal Year, and includes all anticipated income, operating expenses, working capital and other necessary Reserves and capital expenditures, renovations and tenant improvements. Once approved by the Approving Member, the Budget shall not be revised in any material respect without the approval of the Approving Member pursuant to Section 6.3.3 below, except for any expenditure that is specifically permitted in this Agreement. Notwithstanding anything to the contrary contained herein, the Manager is authorized, without the prior consent of the Approving Member, to (i) spend up to an additional ten percent (10%) for any budgeted line item in an Approved Budget, but the Manager shall in no event exceed seven and one-half percent (7.5%) of the aggregate amount for all line items in the Approved Budget (the "**Budget Overruns Provision**"), and (ii) pay actual liabilities then due and/or pay or perform obligations of the Company or any Subsidiary that have triggered (or are reasonably expected to trigger) recourse under any Loan Guaranty as long as the Recourse Protection Conditions (defined below) are met. Subject to the foregoing, the Manager shall be authorized to make only those expenditures and take only those actions which are included in, contemplated by, or substantially consistent with the Approved Business Plan and the Approved Budget then in effect; provided, however, that the Manager shall also be authorized to make or cause any Subsidiary to make any additional expenditures not to exceed Fifty Thousand and No/100 Dollars (\$50,000.00) in the aggregate in any Fiscal Year under circumstances which in the Manager's reasonable judgment constitute an event or condition requiring immediate action (a) for protection of the Property from imminent and material danger or material damage or destruction, (b) for the avoidance of a significant risk of personal injury or material property damage to occupants, tenants or other persons, or (c) for the avoidance of any criminal or civil liability on the part of the Company, any Subsidiary, or any of the Members or their Affiliates with respect to activities at the Property

(collectively, an “**Emergency**”). With respect to any expenditures made pursuant to a specific Emergency, the Manager shall use commercially reasonable efforts to contact the Approving Member prior to making or causing the applicable Subsidiary to make such expenditures if there is adequate time to do so, or promptly after the making of such expenditures if there is not adequate time to notify the Approving Member prior to the making of such expenditures.

6.3.3 **Process for Approval**. The Manager and the Approving Member have approved a Business Plan and Budget for the Company for the 2020 Fiscal Year, which is attached hereto as **Exhibit C**. For the Fiscal Year of the Company commencing on January 1, 2021, and for each Fiscal Year thereafter, the Manager shall submit to the Approving Member a proposed Budget and Business Plan, in such form as on **Exhibit C**, no later than the October 1 preceding each such Fiscal Year. The Approving Member shall, after its receipt of such Budget and/or Business Plan, either (a) approve the Budget and/or Business Plan (which approval shall not be unreasonably withheld, conditioned, or delayed), or (b) advise the Manager of the Approving Member’s objections thereto. If the Approving Member has any objections to the proposed Budget or Business Plan, then the Approving Member and the Manager shall use good faith and commercially reasonable efforts to resolve such disagreements before January 1 of the following calendar year; provided that if they are unable to agree upon any provision of the proposed Budget or Business Plan, then the previous year’s Budget and Business Plan—with (i) any non-discretionary costs (e.g., real estate taxes, insurance, debt service, and utilities) increased as reasonably needed, and (ii) all other costs adjusted by any increase in the Consumer Price Index for all Urban Consumers, All Items, Chicago-Gary-Lake County, and all gross receipts multiplied by one hundred two and one-half percent (102.5%)—shall be deemed to have been approved by the Manager and the Approving Member; it being agreed that Manager and Approving Member shall act in good faith and use commercially reasonable efforts to approve a Budget. The Budget and Business Plan, once approved or deemed to have been approved pursuant to this **Section 6.3.3**, shall be referred to herein as the **“Approved Budget”** and the **“Approved Business Plan”**.

6.4 **Major Decisions**. Subject to the terms and conditions set forth in this **Section 6.4**, the Manager shall not make or take any Major Decision without the prior approval of the Approving Member, which approval shall not be unreasonably withheld, conditioned, or delayed. **“Recourse Protection Right”** means the right to make certain decisions and/or to take certain actions that otherwise would require Approving Member’s consent to reasonably mitigate or reasonably avoid triggering recourse under any Loan Guaranty, and on the following terms and conditions (collectively, the **“Recourse Protection Conditions”**): (i) the liabilities or obligations at hand either (a) have arisen (as evidenced by a notice, demand, claim, or other such correspondence or action from the Lender) or (b) are reasonably likely to arise; (ii) at least ten (10) Business Days prior to exercising the Recourse Protection Right, the Manager or Guarantor(s) must have delivered to the Approving Member a notice of same with (1) as applicable, either (a) a copy of such correspondence from the Lender along with any other reasonably pertinent documentation or information thereon in the Manager’s possession, or (b) all documentation or information pertaining to such liability or obligation in the Manager’s possession, and (2) a description of the course of action that the Manager intends to take to reasonably mitigate or reasonably avoid triggering such recourse along with documentation thereon; (iii) the liabilities or obligations at hand were not caused by, are not the result of, and are not alleged by the Lender to have been caused by a Bad Act of Manager, any Manager Principal or Guarantor, or any of their Controlled Affiliates; and (iv) paying such liabilities or performing such obligations would not cause (or be reasonably expected to cause) an “Event of Default” under the Loan Documents, provided that the restriction described in this clause (iv) shall not apply to payments or obligations that are made or performed to the Lender to satisfy Guaranteed Obligations. **“Major Decisions”** shall mean decisions to do any of the following with respect to the Property, the Company, or any Subsidiary:

6.4.1 voluntarily dissolve, terminate or liquidate, or consolidate or merge with or into any Person;

6.4.2 perform any act in contravention of this Agreement or in violation of law or any governmental regulation or which would make it impossible to carry on the Business of the Company;

6.4.3 perform any act (other than an act required by this Agreement) which would subject or purport to subject, at the time such act occurred, (a) the Skydeck Group to personal liability or cause the Skydeck Group to guarantee or be deemed to become a guarantor or surety of any indebtedness of the Company or any Subsidiary (including any Loan), or (b) the Manager to personal liability or cause the Manager to guarantee or be deemed to become a guarantor or surety of any indebtedness of the Company or any Subsidiary (other than the Loan Guaranties);

6.4.4 amend or modify this Agreement (except pursuant to Section 9.4) or the Certificate of Formation or the organizational documents of any Subsidiary or change the Business of the Company or the business of any Subsidiary;

6.4.5 change the name of the Company or any Subsidiary, or adopt any “d/b/a” or take any action which would cause the Company or any Subsidiary to become an entity other than a Delaware limited liability company, or select or change the name of the Property;

6.4.6 except for Capital Call Notices that are permitted under Section 9.1, send a Capital Call Notice or require any Additional Capital Contributions;

6.4.7 except as expressly permitted in this Agreement, cause or permit the Company or any Subsidiary to enter into any Affiliate Agreement or any amendment or modification to any Affiliate Agreement (except any ministerial change to the terms of any Affiliate Agreement), extend, terminate or cancel any Affiliate Agreement or waive any material right of the Company or any Subsidiary under any Affiliate Agreement;

6.4.8 subject to Manager’s Recourse Protection Right, cause or permit the Company or any Subsidiary to (a) except in substantial accordance with the then-current Budget and Business Plan, incur, place, replace, substitute, add to, extend, supplement, amend, modify, increase, guarantee, compromise, restructure or refinance any borrowing (including mezzanine financing) or indebtedness (other than trade payables or other operational indebtedness incurred in the ordinary course of business) of the Company or any Subsidiary or with respect to the Property, (b) extend credit or make any loan to any Person (excluding any Subsidiary), or (c) become or act as a surety, guarantor, endorser or accommodation endorser for any Person (other than any Subsidiary), or modify any obligation relating to any action described in this clause (c), other than the endorsement of checks and the like in the ordinary course of business;

6.4.9 take any Bankruptcy Action or permit or cause any Subsidiary to take any Bankruptcy Action;

6.4.10 subject to Manager’s Recourse Protection Right and except as permitted by Article 8 or in accordance with Section 9.4, Transfer any direct or indirect legal or beneficial interests in the Company or any Subsidiary;

6.4.11 except in substantial accordance with the Approved Business Plan or the Approved Budget or in accordance with Manager’s Recourse Protection Right, enter into, terminate, amend or modify any contract or agreement that either (a) has, by its terms or on account of the performance bonds or guarantees required in connection therewith, a potential total aggregate liability for either or both of the Members or the Company or any Subsidiary in excess of One Hundred Thousand and No/100 Dollars (\$100,000.00) or (b) requires total aggregate payments in excess of One Hundred Thousand and No/100 Dollars (\$100,000.00);

6.4.12 approve or amend any Budget for the Company or any Subsidiary; provided that Manager may use its Recourse Protection Right to amend the then-current Budget as long as such amendment (a) does not cause (or could not reasonably be expected to cause) an “Event of Default” under the Loan Documents (unless such amendment is to make payments or perform liabilities to the Lender to satisfy Guaranteed Obligations), (b) is commercially reasonable taking into account the Company’s Business Plan, and (c) is not caused by a Bad Act of the Manager, any of the Manager Principals, or any of their Controlled Affiliates;

6.4.13 except as provided in Section 3.2.1 and Article 14, and subject to Manager’s Recourse Protection Right, (a) directly or indirectly, sell, exchange or execute any deed, bill of sale, assignment, pledge agreement, security agreement or similar instrument, or otherwise sell, convey, assign, or dispose of the Property or any portion thereof or any other material assets of or for the Company or any Subsidiary (or any related group of such transactions) other than personal property not material to the Company or acquire any other real property or material asset for the Company or any Subsidiary, or (b) propose to do any of the foregoing before the first (1st) anniversary of the date hereof (a “**Sale Proposal**”);

6.4.14 subject to Manager’s Recourse Protection Right, settle any claim, cause of action, suit, declaration, judgment or other litigation on behalf of the Company or any Subsidiary that involves monetary damages (or a claim of monetary damages) of One Hundred Thousand and No/100 Dollars (\$100,000.00) or more in any one instance or Two Hundred Thousand and No/100 Dollars (\$200,000.00) or more in any Fiscal Year;

6.4.15 cause or permit the Company or any Subsidiary to appoint or hire a Property Manager or Leasing Agent, enter into a new Property Management Agreement or Leasing Agreement, or amend any Property Management Agreement or Leasing Agreement, in each case except (a) in accordance with Section 6.13 and the then applicable Property Management Agreement or Leasing Agreement or (b) in substantial accordance with the then-current Budget and Business Plan;

6.4.16 enter into (a) any GC Agreement with Blue Star (or any Controlled Affiliate of Blue Star, R2, Craig, Matt, or Nate) excluding the GC Agreement attached hereto as Exhibit F, or (b) any amendment or modification to any such GC Agreement excluding any work order that is consistent in all material respects with the then-current Budget and Business Plan;

6.4.17 with respect to any other GC, appoint or hire such GC, enter into any GC Agreement with such GC, or amend any GC Agreement with such GC, in each case except (a) in accordance with Section 6.13 and the then applicable GC Agreement or (b) in substantial accordance with the then-current Budget and Business Plan;

6.4.18 subject to Manager’s Recourse Protection Right, approve any easement agreements, restrictive covenants or any other documents to be put on record or affecting the title of the Property that would materially and adversely affect the Property, or take any action to change the zoning of the Property that would materially and adversely affect the Property;

6.4.19 create or form any Subsidiary (other than Property Owner) or acquire any equity interest in any other entity;

6.4.20 except in accordance with Manager’s Recourse Protection Right, enter into, amend or modify or cause or permit any Subsidiary to enter into, amend or modify any Loan Documents;

6.4.21 enter into (a) any Lease with 16 OC (excluding the 16 OC Lease and the 16 OC Guaranty) or (b) any amendment or modification to any 16 OC Lease Agreement;

6.4.22 with respect to any other Lease, enter into, terminate, amend, or modify any such Lease (i) except in substantial accordance with the then-current Budget and Business Plan and (ii) subject to Manager's Recourse Protection Right;

6.4.23 except in substantial accordance with the then-current Budget and Business Plan, hire or terminate employees of the Company or any Subsidiary;

6.4.24 except in substantial accordance with the then-current Budget and Business Plan and subject to Manager's Recourse Protection Right, engage any broker for the leasing of space at the Property or for the sale of all or any portion of the Property;

6.4.25 agree to any condemnation of the Property or any portion thereof, or agree to convey the Property or any portion thereof in lieu of condemnation; or

6.4.26 (a) make any material decision regarding making or revoking any tax election (including, but not limited to, an election under Section 10.5), adopting or changing any tax accounting method by or on behalf of the Company or any Subsidiary, or accepting, contesting or compromising any adjustment proposed by any tax authority; provided that an election under Section 754 of the Code shall be made at the request of Approving Member or Manager, (b) change the taxable year for federal, state or foreign income tax purposes of the Company or any Subsidiary, or (c) approve a like-kind exchange pursuant to Section 1031 of the Code.

6.5 Authority of Members to Deal with Company and Advances and Reimbursement to the Members. The Members shall be entitled to receive, out of Company funds available therefor and only to the extent provided for in the Approved Budget or the Approved Business Plan or otherwise in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000) in the aggregate during each calendar year (provided that written notice thereof has been delivered to Approving Member), reimbursements of all reasonable actual and out-of-pocket costs and expenses incurred in connection with any Loan, the Business of the Company, reasonable Company organizational costs, including amounts expended that are related to the filing of the Certificate of Formation and the formation of the Company (but without duplication of any expenses reimbursed under any Affiliate Agreements), and any legal fees incurred by each Member in connection with the preparation, negotiation and the entering into of this Agreement and all documents ancillary thereto (including, without limitation, the Property Management Agreement, the Leasing Agreement, and any GC Agreement). The costs and expenses incurred by a Member that are not reimbursable costs and expenses to such Member pursuant to this Section 6.5 shall be paid by such Member and such payments shall not constitute Capital Contributions, Member Loans, or any other loans to the Company or any Member and shall not increase the Capital Account of such Member.

6.6 Limitations on Liability of the Manager to the Members. Any other provision of this Agreement to the contrary notwithstanding, neither the Manager nor its Affiliates nor any Member shall be liable for the return of any Capital Contributions of the Members or for any portion thereof, it being expressly understood that any return of capital shall be made solely from the assets of the Company, nor shall the Manager, any Member or any of their Affiliates be required to pay to the Company or to any Member any capital deficits of any Member upon Dissolution of the Company or otherwise.

6.7 Other Business Ventures. The Company and the Members: (a) recognize that the Members and their Affiliates, and their respective members, partners, shareholders, officers, directors, employees, agents and representatives, have or may in the future have other business interests, activities and investments, independently or with others, some of which may be in conflict or competition with the business of the Company and its Subsidiaries; (b) agree that the Members and their Affiliates, and their respective members, partners, shareholders, officers, directors, employees, agents and representatives, are entitled to carry on such other business interests, activities and investments; (c) agree that neither the Company, its Subsidiaries, any

other Member, nor any of their respective members, partners, shareholders, officers, directors, employees, agents or representatives, shall have any right, by virtue of this Agreement or otherwise, in or to such business interests, activities and investments, any interests therein or the income or profits derived therefrom; and (d) agree that the pursuit of such business interests, activities and investments, even if competitive with the business of the Company or any of its Subsidiaries, shall not be restricted by this Agreement or deemed a violation of any Member's fiduciary or other duties to the Company or any other Member or otherwise wrongful or improper.

6.8 Intentionally Omitted.

6.9 Manager Event of Default/Removal of the Manager.

6.9.1 Process.

(a) If Approving Member believes that a Manager Event of Default has occurred or will occur if an issue is not cured within the Cure Period, then Approving Member shall have the right, but not the obligation to notify Manager thereof (a "**Default Allegation Notice**") within five (5) Business Days after receiving knowledge of such alleged Manager Event of Default. Within ten (10) days after receiving a Default Allegation Notice, Manager shall notify Approving Member as to whether Manager (a) agrees that a Manager Event of Default has occurred or will occur if such issue is not cured within the Cure Period, or (b) disagrees with same and elects to submit the disagreement to arbitration as permitted under Section 6.9.2 (a "**Default Response Notice**"). If Manager does not timely deliver a Default Response Notice, then Manager shall be deemed to have disagreed with the contents of the Default Allegation Notice (i.e., that, as applicable, a Manager Event of Default has not occurred or will not upon the end of the Cure Period).

(1) If Manager agrees that a Manager Event of Default has occurred, then Approving Member shall have the rights under Section 6.9.1(b).

(2) If Manager agrees that a Manager Event of Default will occur if such issue is not cured within the Cure Period, then (i) Manager shall have the right to cure such issue within the Cure Period as provided in this Agreement, and (ii) Manager shall notify Approving Member if and when Manager believes it has cured such issue (a "**Cure Notice**").

a. If Manager does not deliver a Cure Notice within the Cure Period, then a Manager Event of Default shall be deemed to have occurred, and Approving Member shall have the rights under Section 6.9.1(b).

b. If Manager delivers a Cure Notice within the Cure Period, then Approving Member shall be deemed to agree that Manager has cured such issue unless Approving Member notifies Manager that Approving Member disputes same within ten (10) days after receiving the Cure Notice (a "**Dispute Notice**"). If Approving Member timely delivers a Dispute Notice, then until such dispute is resolved to both Members' satisfaction, each of Approving Member and Manager shall have the right to submit the disagreement to arbitration as provided in Section 6.9.2.

(3) If Manager disagrees (or is deemed to have disagreed) that a Manager Event of Default has occurred or will occur if such issue is not cured within the Cure Period, then such disagreement shall be resolved in accordance with Section 6.9.2.

(b) Following the occurrence and during the continuance of a Manager Event of Default that has been agreed upon by Manager or that has been determined to exist pursuant to Section 6.9.2, the Approving Member may, subject to Section 6.9.1(c), remove Manager as the Manager of the Company (in which event Manager shall continue to be a Member on the terms in Section 6.9.3) by Notice to the Manager. If Manager is removed as the Manager of the Company, then the Approving Member shall select a new Manager, which successor Manager so designated may be the Approving Member, an Affiliate thereof or a third-party non-Member manager appointed to act as the Manager of the Company. If a third-party non-Member manager is so appointed, then such Person shall not be a Member hereunder, notwithstanding its title as "Manager". Any such successor Manager shall be bound by the terms of this Agreement.

(c) If the Manager or any of its Affiliates are Guarantors, then as a condition precedent to removing Manager as the Manager of the Company, the Approving Member must (a) cause the Lender(s) who benefit from the applicable Loan Guaranty(ies) to deliver a signed release of the Guarantors (a "Release") from any liabilities under such Loan Guaranty(ies) that accrue after the date on which the Approving Member removes the Manager as the Manager of the Company, or (b) if a Release is not obtained after sixty (60) days of good faith and commercially reasonable efforts by Approving Member, then cause a Person who is, and whose creditworthiness is, reasonably acceptable to Guarantors to indemnify, defend, and hold harmless Guarantors from and against any and all liabilities under such Loan Guaranty(ies) that accrue after the date on which the Approving Member removes the Manager as the Manager of the Company (the "Removal Date"). Without limiting the foregoing, liabilities that have accrued as of the Removal Date and have been caused by the Bad Acts of the Manager, any Manager Principal or Guarantor, or any of their Affiliates shall be excluded from the preceding indemnity. Additionally, notwithstanding anything to the contrary above, the Guarantors shall not be indemnified from any liabilities under such Loan Guaranty(ies) that (i) accrue after the Removal Date and (ii) are caused by any negligent acts or omissions (or any intentional misconduct) that occurs after the Removal Date by the Manager, any Manager Principal or Guarantor, or any of their Affiliates. The Manager and Members agree that a Person with a tangible net worth that equals or exceeds Guarantors' collective tangible net worth as of the date hereof shall be acceptable to Guarantors.

6.9.2 Arbitration. In the event of any dispute between Manager and Approving Member as to whether a Manager Event of Default has occurred and is continuing, such dispute shall be submitted to final and binding arbitration in Chicago, Illinois, administered by JAMS in accordance with JAMS Streamlined Arbitration Rules and Procedures in effect at that time. Manager and Approving Member shall cooperate with JAMS and with each other in scheduling the arbitration proceedings so that a final non-appealable award is rendered within sixty (60) calendar days after submission to arbitration, and any notice requirements under Paragraph 14(b) of the JAMS Streamlined Arbitration Rules and Procedures or otherwise may be shortened by the JAMS arbitrator in its discretion. The non-prevailing party in such arbitration shall pay all fees and disbursements due to JAMS and the JAMS arbitrator. The JAMS arbitrator shall be (a) a disinterested and impartial person and (b) selected in accordance with Paragraph "12(c)" et seq. of the JAMS Streamlined Arbitration Rules and Procedures. The JAMS arbitrator shall be bound by the provisions of this Agreement and by applicable law and shall not have the power to add to, subtract from, or otherwise modify such provisions. Any decision rendered by the JAMS arbitrator shall be final, conclusive and binding upon the Company and all Members.

6.9.3 Effect of Removal. If Manager is removed as the Manager in accordance with Sections 6.9.1 and 6.9.2 above, then:

(a) Manager shall retain all of its Interest in the Company, including, without limitation, having the same rights to distributions and allocations it would have had if it were still the Manager, except that Manager shall not have any further approval rights over any actions taken by the Approving Member, the replacement Manager, the Company or any Subsidiary except as provided in Section 16.13;

(b) from and after the date on which Manager is removed, the Approving Member shall have the unilateral right to terminate without penalty any Affiliate Agreements, including the Property Management Agreement, the Leasing Agreement, and any GC Agreement but specifically excluding the 16 OC Lease Agreements (provided, however, that the foregoing shall not contravene any right that Property Owner may have to terminate any 16 OC Lease Agreement pursuant to its terms), provided that all amounts that are rightfully due and payable to such Affiliates through the termination date shall be paid in full; it being agreed and understood that amounts due and payable under an Affiliate Agreement that accrue after the occurrence of an event of default under such Affiliate Agreement, which is not cured within applicable notice and cure periods thereunder, shall be deemed not to be due and payable to such Affiliates;

(c) from and after the date on which Manager is removed, Manager (and its Affiliates) shall have no right to any unaccrued fees under the Property Management Agreement, the Leasing Agreement, any GC Agreement, or any similar Affiliate Agreement;

(d) any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, proceedings, costs, expenses and disbursements of any kind or nature whatsoever sustained by the Company, any Subsidiary or Skydeck Group on account of the Manager Event of Default that gave rise to such removal shall be offset against any distributions that would otherwise be made to Manager pursuant to Section 5.1 or 11.1 or any payments under any Affiliate Agreements (which, for purposes hereof, shall exclude the 16 OC Lease Agreements, and Approving Member further acknowledges and agrees that the 16 OC Lease Agreements shall not be subject to any offset or other claim in connection with a Manager Event of Default or any removal of Manager; provided, however, that nothing herein is intended to modify, reduce, eliminate or otherwise affect any of the rights or remedies available to the landlord under the 16 OC Lease Agreements pursuant to the terms thereof);

(e) Approving Member shall have the right to purchase all of the Interest of Manager pursuant to the provisions of Section 6.9.4; and

(f) Manager shall reasonably cooperate with Approving Member on transitioning management of the Company to Approving Member (or to a Person designated by Approving Member, as applicable), including turning over any and all reports, documentation, and information in Manager's possession or control that pertain to the Company, any Subsidiary or the Property.

6.9.4 Purchase of Interests. If the Approving Member has removed the Manager in accordance with Sections 6.9.1 and 6.9.2 above, then (and in addition to all of Approving Member's rights under this Section 6.9) Approving Member (by itself or through a designee) shall have the right to purchase, and Manager shall be required, and hereby agrees, to sell, the entire Interest of Manager in accordance with and subject to the following terms:

(a) Approving Member shall deliver to Manager a Notice of purchase, which notice will specify a closing date for such purchase and sale, which date shall be not less than thirty (30) nor more than one hundred and twenty (120) days after the date of delivery of such notice (such notice, a "Default Purchase Notice"). Failure by Approving Member to deliver a Default Purchase Notice as specified herein shall not constitute a waiver of any such breach or default.

(b) The purchase price for the Interest of Manager shall be determined by following Sections 14.1.3 and 14.2, *mutatis mutandis*, and with the following terms: (i) the Forced Sale Price shall be determined in accordance with Section 6.9.4(c); (ii) the Approving Member shall be deemed to be the FS Non-Triggering Member, and the Manager shall be deemed to be the FS Triggering Member; and (iii) any actual liabilities, obligations, losses, damages, penalties, actions, judgments, suits, proceedings, costs, expenses and disbursements of any kind or nature whatsoever sustained by the Company, any Subsidiary or Approving Member on account of the Manager Event of Default that gave rise to such Default Purchase Notice (including

reasonable attorneys' fees and other reasonable costs and expenses directly related to the removal, transfer, or substitution of Manager or Manager, including costs incurred in obtaining (or attempting to obtain) consent from any Lender), shall be offset against the Forced Sale Purchase Price.

(c) To determine the Forced Sale Price, each of Approving Member and Manager shall, within ten (10) Business Days after the date on which Manager receives a Default Purchase Notice, appoint an appraiser to determine the Forced Sale Price. Each appraiser shall, as promptly as possible but in all events within forty-five (45) days after the date on which Manager receives a Default Purchase Notice, determine the Forced Sale Price and keep same confidential. Neither of such determinations shall be opened except as and when hereinafter expressly provided. Within five (5) Business Days after each appraiser has determined the Forced Sale Price, the appraisers shall arrange a meeting that is held during business hours at a location that is mutually acceptable to the appraisers and located in the City of Chicago. Approving Member and Manager shall have the right to be present at such meeting. At such meeting, the determinations of Forced Sale Price shall be opened and copies thereof shall be distributed to Approving Member and Manager. If the higher of such determinations is less than or equal to one hundred ten percent (110%) of the lower appraised value (or the two appraisals are equal in amount), then the Forced Sale Price shall be the average of the appraised values. If the higher of the appraised values is more than one hundred ten percent (110%) of the lower appraised value, then the two appraisers, within ten (10) Business Days after such meeting, shall jointly appoint a mutually acceptable and impartial third appraiser to resolve the determination of the Forced Sale Price. If the two appraisers fail to agree upon and appoint a third appraiser within such ten (10)-Business Day period, then either Approving Member or Manager may request that JAMS appoint the third appraiser within ten (10) days after such request, and the parties hereto shall be bound by any appointment so made. Upon his/her appointment, the third appraiser shall conduct a baseball-style arbitration in which such appraiser determines (in his/her opinion) which determination of the Forced Sale Price is closer to the correct result. The third appraiser shall not have any power to select an alternative estimate, position, or decision different from one of the two determinations of the Forced Sale Price, or to modify the provisions of this Agreement. The third appraiser shall render his/her decision in writing, with counterpart copies to each party, within thirty (30) days after his/her appointment. The decision of the such appraiser shall be final and binding upon Approving Member and Manager. The party whose appraiser's determination of the Forced Sale Price is not chosen by the third appraiser shall bear the fees and expenses of all appraisers. In all other events, each party shall pay the fees and expenses of its appraiser.

6.10 Compensation of the Manager; Reimbursement. The Company shall reimburse the Manager, in its capacity as the Manager, for any reasonable and verifiable expense of the Company or any Subsidiary paid by the Manager to the extent provided in Section 6.5 of this Agreement. Promptly after a request from Approving Member, Manager shall provide (a) a ledger itemizing the proposed reimbursements, and (b) bills, invoices, and/or receipts verifying such expenditures. Notwithstanding anything to the contrary herein, the Company shall not be required to reimburse the Manager with respect to any costs, expenses, claims, investigations, suits, actions, or proceedings relating to a Manager Event of Default unless and until it is determined (or deemed to be determined) that a Manager Event of Default did not occur.

6.11 Compensation of Other Members; Reimbursement. No salaries or other benefits will be paid to any Member in its capacity as a Member. The Company shall reimburse the Members for certain expenses of the Company and its Subsidiaries paid thereby to the extent provided in Section 6.5.

6.12 Loan and Loan Guarantees.

6.12.1 Loans. The Manager may endeavor to cause the Company to obtain Loans from time to time (it being understood that entering into any such Loan is subject to Section 6.4). In connection with each Loan, the Manager and/or one or more of its creditworthy Affiliates reasonably satisfactory to Lender (each, a "**Guarantor**") shall, for no charge or fee, be required to provide all non-recourse carveout guarantees, indemnities, instruments, certificates, master leases, and other similar agreements that may be required by

Lender (each, a “**Loan Guaranty**”, and collectively, the “**Loan Guarantees**”). The terms of all Loan Guarantees shall be subject to the approval of the Manager and/or its Affiliates in their sole discretion. In no event shall the Approving Member or any of its Affiliates be required to execute any guaranty, indemnity, master lease, or other agreement, instrument or certificate under which the Approving Member or any of its Affiliates has any liability whatsoever in connection with a Loan.

6.12.2 Payment of Guaranteed Obligations.

(a) **Payment**. If any Guaranteed Obligation becomes due, then the Company shall be required to pay (or cause its Subsidiary(ies) to pay) the amount needed to satisfy such Guaranteed Obligation (the “**Guaranteed Amount**”). If the Company and its Subsidiary(ies) do not have sufficient available cash to pay the Guaranteed Amount, then the Manager shall deliver a Capital Call Notice to each Member for each such Member to fund its Percentage Interest of Additional Capital Contributions in the amount of the Guaranteed Amount, and Article 9 shall apply thereto.

(b) **Exclusion**. Notwithstanding anything to the contrary in Section 6.12.2 or Article 9, if any liability under any Guaranty is proximately caused by a Bad Act (defined below) by (i) the Manager or any of its Controlled Affiliates or (ii) the Skydeck Group or any of their respective Controlled Affiliates (as applicable, a “**Bad Actor**”), then the Bad Actor shall indemnify, defend, and hold harmless the other Members (and if the Bad Actor is the Skydeck Group or any of their respective Controlled Affiliates, then the Skydeck Group shall also indemnify, defend, and hold harmless the Guarantors and the Manager) from and against any and all actual losses, claims, demands, costs, damages, and liabilities that are caused by such Bad Act. In connection therewith, (i) the Manager (or the Approving Member, if the liability described in this Section 6.12.2(b) has been proximately caused by a Bad Act by the Manager or any of its Controlled Affiliates) shall deliver a Capital Call Notice to the Manager or the Approving Member (as applicable) to fund one hundred percent (100%) of such liability (including any indemnity-related liabilities as provided above), and (ii) notwithstanding anything to the contrary in Section 6.12.2 or Article 9, (1) the Manager or the Approving Member (as applicable) shall be solely responsible for the entirety of such liability, (2) for the avoidance of doubt, the other Members shall not be required to make any Additional Capital Contribution in respect thereof, and (3) notwithstanding anything to the contrary in this Agreement, (y) any capital contributed by the Manager or the Approving Member (as applicable) shall not be treated as a Capital Contribution for purposes of this Agreement, and (z) to the extent (if any) federal income tax or other rules require such Person’s Capital Account to be increased by such funding, gross items of deduction and/or loss shall be specially allocated to such Person in an amount equal to such funding.

(c) **“Bad Act”** means each of the following: (i) fraud, intentional misrepresentation, intentional misconduct, gross negligence, misappropriation of funds, or voluntary Bankruptcy Action by either (a) the Manager or any of its Controlled Affiliates or (b) the Skydeck Group or any of their respective Controlled Affiliates; (ii) any breach of this Agreement by the Manager or the Skydeck Group (as applicable) that has a materially adverse effect on the Company (or any Subsidiary, as applicable), it being agreed, acknowledged, and understood that Approving Member’s failure or refusal to give its approval of any action, agreement or decision (including, without limitation, any Major Decision) that it has the right to approve under this Agreement shall not constitute a Bad Act hereunder unless Approving Member breaches the applicable standard for such approval in this Agreement; and (iii) any material default under any Loan Document that is caused by the intentional misconduct of either (a) the Manager, the Guarantors, or any of their Controlled Affiliates or (b) the Skydeck Group or any of their respective Controlled Affiliates (it being understood that, without limiting the foregoing, a breach under any Loan Document shall not constitute a Bad Act to the extent such breach arises out of (A) the Company’s lack of sufficient available funds unless same is caused by a Manager Event of Default, or (B) with respect to Manager only, the Approving Member’s failure to authorize the use of such funds for such purpose, if the Approving Member’s authorization is required under this Agreement).

6.13 Affiliate Agreements.

6.13.1 Property Management Agreement. On the date hereof, the Company or its Subsidiary shall enter into the Property Management Agreement with the Property Manager in the form attached hereto as Exhibit D. So long as Manager or an Affiliate thereof serves as Property Manager, then subject to the respective terms and provisions thereof, Approving Member shall have the power and authority to declare any breach or default pursuant to the Property Management Agreement by the Manager on behalf of the Company or any Subsidiary in connection with the Property Management Agreement, to give any consent or approval required by the Company or any Subsidiary (only to the extent such consent or approval is a Major Decision) as “Owner” under the Property Management Agreement, to verify calculations as to the fees payable in accordance with the terms of the Property Management Agreement, to exercise any termination-for-cause provisions contained in the Property Management Agreement, and to make any amendment thereto to which the Property Manager agrees.

6.13.2 Leasing Agreement. On the date hereof, the Company or its Subsidiary shall enter into the Leasing Agreement with the Leasing Agent in the form attached hereto as Exhibit E. So long as Manager or an Affiliate thereof serves as Leasing Agent, then subject to the respective terms and provisions thereof, Approving Member shall have the power and authority to declare any breach or default pursuant to the Leasing Agreement by the Manager on behalf of the Company or any Subsidiary in connection with the Leasing Agreement, to give any consent or approval required by the Company or any Subsidiary (only to the extent such consent or approval is a Major Decision) as “Owner” under the Leasing Agreement, to verify calculations as to the fees payable in accordance with the terms of the Leasing Agreement, to exercise any termination-for-cause provisions contained in the Leasing Agreement, and to make any amendment thereto to which the Leasing Agent agrees.

6.13.3 GC. On the date hereof, the Company or its Subsidiary shall enter into a GC Agreement with Blue Star in the form attached hereto as Exhibit F. As long the Non-Ownership Requirements are met, Manager shall have, subject to Section 6.4, the sole power and authority to deal with all matters pertaining to Blue Star under such GC Agreement. If the Non-Ownership Requirements are no longer met, then (i) Manager shall immediately notify Approving Member thereof and (ii) with respect to any and all GC Agreements with Blue Star (or any Controlled Affiliate of Blue Star, R2, Matt, Nate or Craig), Approving Member shall have, subject to the respective terms and provisions thereof, the sole power and authority to declare any breach or default pursuant to any such GC Agreement, to give any notice, consent or approval required by the Company or any Subsidiary (only to the extent such consent or approval is a Major Decision) as “Owner” under any such GC Agreement, to verify calculations as to the fees payable in accordance with the terms of any such GC Agreement, to exercise any termination-for-cause provisions contained in any such GC Agreement, and to make any amendment thereto to which Blue Star agrees.

6.13.4 16 OC Lease Agreements. In connection with any and all 16 OC Lease Agreements, the following provisions shall apply:

(a) As long as the Non-Ownership Requirements are met, Manager shall have, subject to Section 6.4.21, the sole power and authority to deal with all matters pertaining to 16 OC under the 16 OC Lease Agreements. If the Non-Ownership Requirements are no longer met, then (i) Manager shall immediately notify Approving Member thereof and (ii) with respect to any and all 16 OC Lease Agreements, Approving Member shall have, subject to the respective terms and provisions thereof, the sole power and authority to declare any breach or default pursuant to any such 16 OC Lease Agreement, to give any notice, consent or approval required by the Company or any Subsidiary (only to the extent such consent or approval is a Major Decision) as “Landlord” under any such 16 OC Lease Agreement, to verify calculations as to rent and other sums payable under any such 16 OC Lease Agreement, to exercise any termination-for-cause provisions contained in any such 16 OC Lease Agreement, and to make any amendment thereto to which 16 OC agrees.

6.13.5 Notification.

(a) If the Non-Ownership Requirements are not met, then Sponsor shall notify Approving Member within five (5) Business Days thereafter.

(b) If (i) Craig, Blue Star, or any of their Controlled Affiliates and (ii) Matt, Nate, R2 Companies, or any of their Controlled Affiliates become owners of any interest in a limited liability company or other entity that they Control and that owns, manages, or provides services to real property (whether directly or indirectly through one or more subsidiaries), then Sponsor shall notify Approving Member within five (5) Business Days thereafter. Any such notice shall be for informational purposes only, and such notice is not itself determinative of whether the Non-Ownership Requirements are no longer being met.

6.14 **Waiver of Fiduciary Duties.** Notwithstanding anything to the contrary in this Agreement, the Act, or otherwise, whenever in this Agreement a Person is permitted or required to make a decision, determination, or election or approve, disapprove, consent, or not consent on any matter (each, a “decision or approval”), (i) subject to the Standard of Care, such Person shall be entitled to make such decision or approval in its sole and absolute discretion (unless expressly written to the contrary in this Agreement) and consider only such interests and factors as it desires, including its own interests, and shall, to the fullest extent permitted by applicable law, have no duty or obligation to give any consideration to any interest of or factors affecting any other Member, the Company, any Subsidiaries, or their respective assets; and (ii) subject to the Standard of Care, such Person shall, to the fullest extent permitted by applicable law, have no fiduciary duties or obligations to any Member, the Company, any Subsidiaries, or their respective assets, whether express, implied or otherwise existing (but for this provision) by operation of law or application of legal principles, and any and all such duties and obligations and any and all loss, damage or claim and causes of action that may be based thereon are expressly waived and relinquished by each Member, the Company, and each Subsidiary (on behalf of the Company).

6.15 **Acquisition Fee.** It is acknowledged that Manager or its Affiliate was paid, in exchange for services provided to the Company in connection with finding and acquiring the Property, a fee equal to one percent (1%) of the purchase price of the Property.

6.16 **Development Management Fees.** For services provided in connection with developing and/or redeveloping any portion of the Property (each, a “Project”), the Manager or its Affiliate shall be paid a development management fee of four percent (4%) (the “Development Fee”) and an owner’s representative fee of one and one-half percent (1½%) (the “Owner’s Rep Fee”), in each case on all hard and soft costs of such Project excluding the following costs: (i) the initial costs of acquiring the Property (i.e., the Purchase Price, due diligence costs, and transaction costs); (ii) financing costs, including any loan fees, interest, or other debt service; and (iii) the Development Fee and the Owner’s Rep Fee themselves; provided, however, that neither Manager nor any of its Affiliates shall be entitled to the Owner’s Rep Fee on any Project for which Manager or an Affiliate of Manager is serving as the general contractor. Each of the Development Fee and the Owner’s Rep Fee shall be due and payable in arrears, on a monthly basis, as and when costs of the Project are paid.

ARTICLE 7

MEMBERS’ MEETINGS, RIGHTS, OBLIGATIONS AND LIABILITIES

7.1 **Limitation of Liability.** The Members will not be bound by, or be personally liable for, the expenses, liabilities or obligations of the Company except as otherwise provided in the Act. The Members will not be obligated to make any Capital Contributions other than as provided in this Agreement, except that, to the extent required under the Act, any Members receiving a distribution of cash, or return, in whole or in part, of its net Capital Contribution could be liable to the Company for any sum, not in excess of the amount returned

(with any interest, if any, specified by the Act) necessary to discharge liabilities of the Company to creditors who extended credit or whose claims arose before such return. In addition, subject to Sections 6.12.2(b) and 12.1.2, the Members acknowledge that the liability of a Member for its obligations under this Agreement shall be limited to such Member's interest in the Company and the other Members shall not look to any other property or assets of such Member or the properties or assets of any of the trustees, beneficiaries, members, partners, shareholders, officers, directors, employees, agents and representatives (or others performing similar functions) of such Member in seeking either to enforce such Member's obligations under this Agreement or to satisfy a judgment for such Member's failure to perform such obligations. Except where expressly provided, each Member waives, to the full extent permitted by law, any claim for indirect, consequential or punitive damages, including loss of profits, in connection with any liability of the other Members hereunder.

7.2 No Participation in Management. The Members, in their capacity as such, may not transact any business for the Company, and will have no power to execute agreements on behalf of or otherwise bind or commit the Company, but they may exercise the rights and powers granted to them in this Agreement, including the right to give consents and approvals if and to the extent provided in this Agreement. The exercise of any such rights and powers will be deemed to relate to the basic structure of the Company and not the exercise of control over the Business of the Company. For clarity, all Members acknowledge and agree that (i) Manager's rights pertaining to management, consent, and approval are in its capacity as the sole Manager (not in its capacity as a Member); (ii) the only Member who has any consent or approval rights under this Agreement is the Approving Member (provided, however, that it is understood that Approving Member is not a "manager" of the Company, is not acting in any managerial capacity, and shall not be deemed to have any role in the management of the Company by exercising its consent and approval rights hereunder); (iii) no other Member has any rights pertaining to management, consent, or approval; and (iv) except as otherwise required by applicable law, all other Members have only the rights expressly granted to them in this Agreement.

7.3 Meetings.

7.3.1 Place of Meetings. Meetings of the Members shall be held at the principal office of the Company, unless some other appropriate and convenient location shall be designated for that purpose from time to time by the Approving Member (subject to the Manager's reasonable approval). The Members may participate in any meeting through telephonic or similar communications equipment by means of which all persons participating in the meeting can hear one another, and such participation will constitute presence in person at such meeting.

7.3.2 Monthly Meetings. The Manager shall from time to time upon request of the Approving Member, but in any event not less than once per month, meet in person or by telephone with the Approving Member to discuss the business and affairs of the Company or to discuss any particular matter reasonably requested by the Approving Member.

7.3.3 Actions without a Meeting. Any action which may be taken at any meeting of Members may be taken, without a meeting and without prior Notice if (a) a consent in writing, setting forth the action so taken, shall be signed by an authorized representative of each Member or (b) no consent of the Members is required under this Agreement and such action may be taken by the Manager as provided in this Agreement.

7.4 Consultation/Inspection.

7.4.1 Consultation. The Manager shall endeavor in good faith to keep the Approving Member reasonably apprised of the taking of any actions or making of any decisions pursuant to Sections 6.1 and 6.2.

7.4.2 Inspection. The Approving Member, its Affiliates, and their respective agents, representatives, consultants and employees shall have the right, at their sole cost and expense, to perform reasonable inspections of the Property or any part thereof at reasonable hours upon reasonable advance notice to the Manager (which may be given verbally), subject to the terms of any Leases.

ARTICLE 8

TRANSFERS

8.1 Transfer or Assignment of Member's Interest.

8.1.1 In General. Except as provided in this Article 8, no Member may sell, transfer, assign or otherwise convey or mortgage, pledge, hypothecate or otherwise dispose of, encumber or permit or suffer any encumbrance of (or permit or suffer to exist any of the foregoing), either directly or indirectly (a "Transfer"), all or any part of its Interest or any direct or indirect ownership interest in such Member without the consent of the Manager (and with respect to any Transfer of any Interest in or of the Manager, the Approving Member). Any Transferee which has obtained an Interest other than as expressly permitted in this Article 8 shall have no right to become a Member of the Company. In addition, the Members acknowledge and agree that any Transfer permitted hereunder shall not result in there being more than fifteen (15) Members in the Company, unless the admission of additional Members is consented to by the Approving Member and the Manager.

8.1.2 Certain Transfers Permitted. Notwithstanding Section 8.1.1, each Member may allow or effect the Transfer of its Interests, ownership interests in such Member, or ownership interests in the partners, members or shareholders thereof, as follows, subject in each case to the provisions of the Loan Documents related to the Property that are applicable from time to time:

(a) in the case of Manager, any Transfer (whether in one transaction or a series of transactions, and in the aggregate over time) of up to five-sixths (5/6th) of its Interest as of the date hereof, in each case only if following such Transfer, Manager continues to comply with the Control and Ownership Requirement;

(b) in the case of Manager, any Transfer of direct or indirect ownership interests in Manager, in each case only if following such Transfer, Manager continues to comply with the Control and Ownership Requirement;

(c) in the case of Approving Member, (i) any Transfer of direct or indirect ownership interests in Approving Member to any Affiliate Controlled by Polsky or any Approved Successor, (ii) any Transfer of up to forty-five percent (45%) of Approving Member's Interest for estate planning purposes to the trustees of any trust established by or for the benefit of Polsky, an Approved Successor, or any of their respective immediate family members (including the descendants thereof), and (iii) any Transfer (whether in one transaction or a series of transactions, and in the aggregate over time) of up to one-half (1/2) of its Interest as of the date hereof, in each case only if following such Transfer, Polsky or an Approved Successor continues to Control Approving Member;

(d) in the case of Pradera, (i) any Transfer of direct or indirect ownership interests in Pradera to any Affiliate Controlled by Taiber, (ii) any Transfer of up to forty-five percent (45%) of Pradera's Interest for estate planning purposes to the trustees of any trust established by or for the benefit of Taiber or any of his immediate family members (including the descendants thereof), (iii) any Transfer (whether in one transaction or a series of transactions, and in the aggregate over time) of up to one-half (1/2) of its Interest as of the date hereof, in each case only if following such Transfer, Taiber continues to Control Pradera, and (iv) any Transfer (whether in one transaction or a series of transactions) of its Interest, or any part thereof, to Polsky,

an Affiliate Controlled by Polsky, an Approved Successor, or an Affiliate Controlled by an Approved Successor; and

(e) in the case of Parker, (i) any Transfer of up to forty-five percent (45%) of Parker's Interest for estate planning purposes to the trustees of any trust established by or for the benefit of Timothy Parker or any of his immediate family members (including the descendants thereof), (ii) any Transfer (whether in one transaction or a series of transactions, and in the aggregate over time) of up to one-half (1/2) of his Interest as of the date hereof, in each case only if following such Transfer, the remainder of Parker's Interest continues to be either (a) personally owned by Timothy Parker or (b) Controlled by Parker, and (iii) any Transfer (whether in one transaction or a series of transactions) of his Interest, or any part thereof, to Polsky, an Affiliate Controlled by Polsky, an Approved Successor, or an Affiliate Controlled by an Approved Successor.

Each Transferee under Section 8.1.2(a), clause (ii) or (iii) of Section 8.1.2(c), clause (ii) or (iii) of Section 8.1.2(d), or clause (ii) or (iii) of Section 8.1.2(e) (each, a "**New Member Transferee**") (1) shall be admitted as a Member, (2) shall not, as applicable, be a "Manager" or have any of the "Manager's" rights under this Agreement, or be an "Approving Member" or have any of the "Approving Member's" rights under this Agreement, (3) shall expressly acknowledge and agree, when being admitted to the Company, that its rights are as a Member only on the terms in this Agreement, and shall acknowledge Section 7.2 in particular; and (4) shall have the right, at any time after the first (1st) anniversary of the date on which such Person becomes a Member, to Transfer any or all of its Interest, provided that if such Transfer would result in a change in Control of such New Member Transferee, then Manager and Approving Member shall have the right to disapprove such Transfer if the proposed Transferee is not, in Manager and Approving Member's good faith judgment, a reputable Person of good character.

Notwithstanding anything to the contrary herein, (i) no Transfer may be made to a Prohibited Person, and (ii) to the extent required under the Loan Documents, Members shall deliver written prior notice of such Transfer to the Lender.

8.2 **Intentionally Omitted.**

8.3 **Restrictions on Transfers.** Except as otherwise expressly set forth herein, all Transfers, directly or indirectly, of all or any portion of a direct or indirect legal or beneficial interest in the Company shall be subject to the following restrictions: (a) no Transfer shall be made to any Person who is not financially able to perform the obligations of a Member hereunder; (b) no Transfer shall be made which results, or would result upon a foreclosure of any security interest, in a termination of the Company within the meaning of the Code; (c) no Transfer shall be made if such Transfer would cause a Member's representations, warranties, and/or covenants in this Agreement to become false; and (d) no Transfer shall be made which (i) violates the provisions of any Loan Document, any other material agreement of the Company or its Subsidiaries or any provision of this Agreement, (ii) would result in the Company or any Member having to register under the Securities Act, the Securities Exchange Act of 1934, as amended, the Investment Company Act of 1940, as amended, or any other federal, state or local securities laws, (iii) would violate any applicable federal, state or local laws, including the Securities Act, and any other securities laws, (iv) would cause the Company to fail to be treated as a partnership for federal income tax purposes, (v) would cause the Company to be treated as a "publicly traded partnership" within the meaning of Section 7704 of the Code or (vi) would result in the Company or any of its Subsidiaries holding "plan assets" as defined in the Employee Retirement Income Security Act (ERISA). All attempts to Transfer, directly or indirectly, all or any portion of a direct or indirect legal or beneficial interest in the Company in contravention of this Agreement shall be void.

8.4 **Effect of Transfer.**

8.4.1 Except for a Transfer permitted under this Agreement, no Transfer of Interests shall release any party of its obligations hereunder without the express written consent of the Manager (and with respect to any Transfer of the Entire Interest of the Manager, the Approving Member).

8.4.2 In the event of any direct Transfer of an Interest specifically permitted under this Agreement, (a) the Interest so transferred shall be and remain subject to all terms and provisions of this Agreement, (b) the transferee shall be deemed to have assumed all obligations hereunder relating to the Interest so transferred, and (c) all of the terms hereof shall be binding upon and enforceable against the transferee.

8.4.3 No change in ownership of all or any portion of any direct Interest shall be binding upon any Member or the Company until an executed copy of all instruments in connection with such Transfer, including an executed counterpart signature page to this Agreement, has been delivered to the Manager (and with respect to any Transfer of direct Interests by the Manager, to the Approving Member).

8.5 **Lender Consent; Admission of New Members.**

8.5.1 Notwithstanding anything to the contrary set forth in this Article 8, no Transfer shall be permitted or effective for any purpose unless all required consents, if any, of the Lender shall have been obtained in writing.

8.5.2 Except as provided in Section 8.1.2 or in accordance with Sections 8.2 or 9.4, additional Members may be admitted only with the consent of each of the Manager and Approving Member. In all events, each additional Member must agree to be bound by all the terms and provisions of this Agreement. The admission of additional Members shall be evidenced by an admission agreement or a written modification to this Agreement.

8.6 **Void Transfers.** Any Transfer made in violation of this Article 8 shall be of no force or effect, and the transferring Member shall continue to be treated as a Member for all purposes, and obligated under each and every provision, of this Agreement.

ARTICLE 9

ADDITIONAL CAPITAL CONTRIBUTIONS

9.1 **Additional Capital Contributions.**

9.1.1 If, at any time and from time to time, additional funds for the Company or any Subsidiary are (a) needed for expenditures that are substantially in accordance with the then-current Budget and Business Plan, (b) needed for expenditures that are expressly permitted under Section 6.3.2 of this Agreement, or (c) required to be called as provided in Sections 6.12 and 12.1 of this Agreement, then the Manager (or the Approving Member if the need for additional funds arises under (y) Section 12.1.2 and the Manager is the indemnifying Member under Section 12.1.2, or (z) Section 6.12.2(b)) and the Manager is responsible for the liability described in such section) shall have the right to deliver a Notice to the Members (a “**Capital Call Notice**”) that additional cash Capital Contributions (“**Additional Capital Contributions**”) are required to be made to the Company in the amount of such additional funds. Each Capital Call Notice shall specify in writing (A) the specific purpose for which the Additional Capital Contributions are required, (B) the aggregate amount of the Additional Capital Contributions being called, (C) each Member’s share of such Additional Capital Contributions, and (D) the due date for funding such Additional Capital Contributions, which due date shall not be less than ten (10) Business Days (or such sooner date as required with respect to any Emergency) after the date on which such Capital Call Notice is given. Each Member shall fund its share of each Additional Capital Contribution on or prior to the due date set forth in the applicable Capital Call Notice.

9.1.2 Each Member's share of each Additional Capital Contribution pursuant to clauses (a) and (b) in Section 9.1.1 shall be in proportion to such Member's Percentage Interest. Notwithstanding the foregoing, if any Additional Capital Contribution is to be made after any distributions of Available Cash pursuant to Section 5.1.1(3) has been made, then such Additional Capital Contribution shall be made in proportion to the Members' respective shares of such distributions (collectively, "**Reverse Contributions**") until (a) the aggregate amount of Reverse Contributions then or previously made equals (b) the aggregate amount of distributions then or previously made pursuant to Section 5.1.1(3). Notwithstanding the foregoing, if any Reverse Contributions are (or were) taxable income to a Member, then such Member shall be obligated to fund only sixty percent (60%) of such Reverse Contributions, it being acknowledged that each Member expects to pay income taxes on taxable distributions in a deemed percentage of forty percent (40%). Reverse Contributions shall not change or modify the Members' respective Percentage Interests.

9.1.3 Each Member's share of each Additional Capital Contribution pursuant to clause (c) in Section 9.1.1 shall be as provided in the specific section of this Agreement.

9.2 **Member Loans.** If (i) any Member shall fail to make all or any portion of any Additional Capital Contribution which such Member is obligated to make under Section 9.1 within the time period set forth in the applicable Capital Call Notice (such amount not contributed being herein referred to as a "**Declining Member Shortfall**" and such Member being herein referred to as a "**Declining Member**"), and (ii) any other Member shall have duly made its Additional Capital Contribution (each, a "**Non-Declining Member**"), then each Non-Declining Member shall have the right, thereafter within ten (10) Business Days of actual knowledge of the Declining Member Shortfall, to either (a) advance to the Company all or a portion (e.g., its Percentage Interest, as grossed up by grossing up all Non-Declining Members' Percentage Interests to one hundred percent (100%)) of the Declining Member Shortfall, which advance shall be treated as an Additional Capital Contribution by the Declining Member and a loan by the Non-Declining Member to the Declining Member in the amount of such advance (each, also a "**Member Loan**"), which Member Loan will earn interest thereon at an annual rate, compounded monthly, equal to the lesser of (i) the maximum rate of interest allowed by applicable law, and (ii) fifteen percent (15%); or (b) elect to cancel its respective share of the Additional Capital Contribution, in which case any amount previously contributed by such Non-Declining Member with respect to such Capital Call Notice shall be returned to the Non-Declining Member by the Company. So long as a Member Loan is outstanding, the Declining Member shall have the right to repay the Member Loan (and all interest then due and owing), in whole or in part, by sending a Notice to the Non-Declining Member of its intention to repay such Member Loan, which Notice will not be effective unless it recites the amount to be repaid, including interest accrued through the date of repayment, and the date it intends to make such payment, which date shall be no more than ten (10) Business Days after the date the Non-Declining Member receives such Notice (and in all events before the Cram-Down Trigger Date (defined below)).

9.3 **Cram-Down Contribution.** If any portion of a Member Loan remains outstanding on the one hundred eightieth (180th) day after the date on which such Member Loan was made ("**Cram-Down Trigger Date**"), then from and after the Cram-Down Trigger Date, the Non-Declining Member may convert such Member Loan into an Additional Capital Contribution by the Non-Declining Member in an amount equal to the sum of such Member Loan and the accrued and unpaid interest thereon (a "**Cram-Down Contribution**") by Notifying the Manager of its election to do same. If the Non-Declining Member so elects, then the Company shall immediately convert such Member Loan into a Cram-Down Contribution, and upon such conversion, (i) such Member Loan shall no longer be outstanding; (ii) such Cram-Down Contribution shall be deemed an Additional Capital Contribution by the Non-Declining Member as of the date of such conversion; (iii) the Non-Declining Member's Capital Account shall be increased by an amount equal to the Cram-Down Contribution; (iv) the Declining Member shall be treated as receiving a Distribution in the amount of the Cram-Down Contribution, and its Capital Account shall be decreased by such amount; (v) the Percentage Interest of the Declining Member shall be decreased by the number of percentage points equal in amount to the product of (1) one hundred fifty percent (150%) (except that one hundred percent (100%) shall be used for any Cram-

Down Contribution caused by not funding an Additional Capital Contribution that relates to or results from a Construction Cost Overrun) multiplied by (2) a fraction, the numerator of which equals the amount of the Cram-Down Contribution, and the denominator of which equals the aggregate amount of all Capital Contributions theretofore contributed by all Members plus the principal amount of the Member Loan that is being converted into an Additional Capital Contribution; and (vi) the Percentage Interest of the Non-Declining Member shall be increased by such number of percentage points. In no event shall the Declining Member's Percentage Interest be reduced below zero, nor shall the Non-Declining Member's Percentage Interest be increased by more than the corresponding reduction in the Declining Member's Percentage Interest. In connection with any Cram-Down Contribution, the Declining Member shall pay any and all transfer taxes associated therewith.

9.4 **Deficiency**. If the Declining Member Shortfall is not satisfied by the process in Section 9.2, then to the extent of such non-funding (and notwithstanding anything to the contrary in this Agreement), (i) the Manager may offer to sell new Interests to third parties and/or Affiliates, which Interests may have such rights, priorities, and preferences as the Manager may determine, and (ii) the Manager shall have all authority that is necessary in connection therewith, including, without limitation, to admit new Members and amend this Agreement. All Members acknowledge the foregoing, including that any new Interests may dilute or have preferences superior to their Interests.

9.5 **Dilution or Not Control**. If (a) pursuant to Section 9.3 and/or Section 9.4, the Approving Member is diluted to a Percentage Interest that is below fifty percent (50%), or (b) the Approving Member breaches Section 15.2.2 and does not cure such breach within the Cure Period (*mutatis mutandis*), then notwithstanding anything to the contrary in this Agreement, the Approving Member shall no longer have any approval or consent rights under this Agreement except as provided in Section 16.13, or the right to initiate the transactions described in Articles 13 and 14.

9.6 **Limitation of Liability**. Anything contained in this Article 9 to the contrary notwithstanding, if any Member is required pursuant to Section 9.1 to provide Additional Capital Contributions and shall fail to do so, (i) same shall not constitute a breach or default under this Agreement, and (ii) such Declining Member's sole liability, and the Non-Declining Member's sole remedy, shall be expressly as set forth in this Article 9. No Member and no partner, shareholder, member, director, officer, manager, or employee of any Member shall have any personal liability to provide such Additional Capital Contributions.

9.7 **Sole Benefit**. It is expressly acknowledged and agreed that the provisions of this Agreement relating to the rights and obligations of the Members to make any Additional Capital Contributions or to make Member Loans are for the sole benefit of the Members and may not be exercised on behalf of the Members or the Company, invoked or enforced for any other purpose not expressly set forth in this Article 9, or invoked or enforced by any other Person, including by any lender or any trustee in a bankruptcy proceeding.

ARTICLE 10

BOOKS, RECORDS, REPORTS AND BANK ACCOUNTS

10.1 **Maintenance of Books and Records**. At all times and during the continuance of the term of the Company, the Manager shall keep or cause to be kept true and complete books and records of the Company and the Subsidiaries (including all records required to be maintained by Section 18-305 of the Act, as amended from time to time, or other provisions of applicable law, work papers, check ledgers, bank records, books of account, files and journals) (collectively, the "**Books and Records**") in which each transaction of the Company and the Subsidiaries shall be entered fully and accurately on a Fiscal-Year basis and in accordance with GAAP.

10.2 **Inspection and Audit Rights**. All of the Books and Records, together with an executed copy of this Agreement and the Certificate of Formation, and any amendments thereto, shall at all times be

maintained at the principal office of the Manager, and shall be, upon reasonable notice to the Manager, open to the inspection and examination of any Member or during reasonable business hours for any purpose. Notwithstanding any other provision of this Agreement to the contrary, neither the Company nor the Manager may keep confidential from any other Member any information that the Company or the Manager would otherwise be permitted to keep confidential pursuant to Section 18-305(c) of the Act. Each of Manager and Approving Member shall have the right to perform an audit of the Company and the Subsidiaries at any time; *provided* that such auditing Member shall bear the cost of such audit, except that in any Fiscal Year each of Approving Member and Manager may perform an audit at the Company's expense, capped, in the aggregate, for each such Fiscal Year at Thirty Thousand and No/100 Dollars (\$30,000.00). The Manager shall retain (via electronic storage) all of the Books and Records and tax information with respect to the Company and the Subsidiaries for a period of at least thirty-six (36) months after such information is prepared (or such longer time as required by law).

10.3 Bank Accounts. The Manager shall, as soon as reasonably practicable, establish and maintain segregated bank accounts in the name of the Company and for the business of the Company, which accounts shall, to the extent reasonably practicable, be interest-bearing and representatives of the Manager shall be authorized signatories of any such account. The bank accounts shall be maintained in such banking institutions as the Manager shall determine. For the avoidance of doubt, unless approved by the Approving Member, any assets in such bank accounts shall be limited to cash, cash items, and government securities, each within the meaning of Section 856(c) of the Code.

10.4 Partnership Representative.

10.4.1 The Manager is hereby designated the Company's "partnership representative" as defined in the Revised Partnership Audit Procedures, with all powers that accompany such status, and shall be entitled to designate an individual to act on behalf of the partnership representative to the extent required by the Revised Partnership Audit Procedures. In the event the Company is liable under the Revised Partnership Audit Procedures for any imputed underpayment (including any interest, penalties or additions to tax) with respect to items of Company income, gain, loss, deduction or credit that are attributable to a Member for the applicable year, such Member shall promptly reimburse the Company for such amount and such reimbursement shall not be considered a Capital Contribution by such Member.

10.4.2 To the extent that a portion of the tax liabilities imposed under §6225 of the Revised Partnership Audit Procedures for a prior year relates to a former Member, the partnership representative may require a former Member to indemnify the Company for its allocable portion of such liability. Each Member acknowledges that, notwithstanding the transfer of all or any portion of its Interest, pursuant to this Section 10.4.2, it may remain liable for tax liabilities with respect to its allocable share of income and gain of the Company for the Company's taxable years (or portions thereof) prior to such Transfer or redemption, as applicable, under §6225 of the Code, as amended by the Revised Partnership Audit Procedures. The partnership representative shall be entitled to be reimbursed by the Company for all reasonable costs and expenses incurred by it in connection with any administrative or judicial proceeding affecting tax matters of the Company and/or the Members in their capacity as such and to be indemnified by the Company in the same manner as the Manager is indemnified under Article 12.

10.4.3 The partnership representative shall give prompt notice to each other Member of any notice of audit, any notice of action with respect to a revenue agent's report, any notice of a thirty (30)-day appeal letter and any notice of a deficiency in tax concerning the Company's income tax return, and all other material notices received from a taxing authority with respect to any audit that may come to its attention in its capacity as partnership representative by giving Notice thereof reasonably promptly after becoming aware thereof.

10.5 No Election to be Taxed as Association. The Company shall be treated as a partnership for federal and state income tax purposes. No Member shall cause the Company to elect to be treated as a corporation for federal or state income tax purposes, unless such election is approved in writing by each of the Manager and Approving Member.

10.6 Reports and Statements.

10.6.1 Monthly/Quarterly Reports. The Manager shall prepare, or cause to be prepared, and furnish to Approving Member, (1) not later than ten (10) Business Days after the last Business Day of each month, (a) an unaudited balance sheet of the Company dated as of the end of such month, (b) an unaudited related income statement of the Company for such month, (c) an unaudited statement of Approving Member's Capital Account for such month, (d) a report showing approved budget to actual variances, (e) a report showing certain GAAP adjustments, including but not limited to straight-line rent adjustments, accumulated depreciation and asset write-downs, (f) a general ledger upload file, and (g) upon the Approving Member's reasonable request, such other ad hoc operating and financial information to facilitate the Approving Member's reporting, (2) within fifteen (15) Business Days after the last day of each quarter in each Fiscal Year, each of the foregoing reports prepared on a quarterly basis, and (3) supporting schedules, reports and backup information as are reasonably requested by the Approving Member, in a timely manner but no later than ten (10) Business Days after request therefor. The Manager may use a monthly cutoff date (e.g., the 15th of every month) to prepare the preceding materials, using actual information before the cutoff date and estimated information as reasonably necessary after the cutoff date.

10.6.2 Annual Reports. The Manager shall be responsible for (a) overseeing the Company's Approved Accountants in the preparation of, and (b) using commercially reasonable efforts to send to every Member, within ninety (90) days after the end of each Fiscal Year, an annual report of the Company, including an annual balance sheet, profit and loss statement and a statement of changes in financial position, and a statement showing distributions to the Members, all as prepared in accordance with GAAP, and a statement showing allocations to the Members of taxable income, gains, losses, deductions and credits, as prepared by such Approved Accountants, provided that the Approving Member shall be entitled to review and approve such annual report prior to it being finalized (which approval shall not be unreasonably withheld, conditioned, or delayed). In addition, the Manager shall send to each Member such other information concerning the Company as reasonably requested by such Member, as is necessary for the preparation of such Member's federal, state and local income or other tax returns (and returns of any holder of a direct or indirect interest therein).

10.6.3 Tax Returns. The Manager shall be responsible for overseeing the Company's Approved Accountants in the preparation of all federal, state and local tax returns required to be filed. The Manager shall submit, or cause the Company's Approved Accountants to submit, draft versions of the Company's tax returns to the Approving Member for its review and approval (which shall not be unreasonably withheld, conditioned, or delayed) prior to filing such returns. The Manager shall use commercially reasonable efforts to deliver estimated IRS Schedule K-1s to all Members not later than December 1 of each Fiscal Year to which such Schedule K-1 relates and final versions of such Schedule K-1s no later than March 15th following such Fiscal Year (and if such date is not a Business Day, then on the previous Business Day). The Manager shall resolve any reasonable objections that any other Member may have with respect to a tax return. Each Member shall notify the other Members upon receipt of any notice of tax examination of the Company by federal, state or local authorities.

10.7 Expenses. All out-of-pocket expenses incurred by or on behalf of the Company and payable to Persons who are not Affiliates of the Manager in connection with the reporting requirements and the keeping of the Books and Records of the Company and its Subsidiaries, and the preparation of financial statements (whether unaudited or audited) and federal, state and local tax and information returns required to implement the provisions of this Agreement or required by any governmental authority with jurisdiction over the

Company and the Subsidiaries, shall be borne by the Company as an ordinary expense of its business in accordance with the Approved Budget.

ARTICLE 11

TERMINATION AND DISSOLUTION

11.1 **Dissolution**. The Company shall be dissolved upon the occurrence of any of the following events:

11.1.1 the written agreement of Manager and Approving Member to dissolve the Company;

11.1.2 the resignation, bankruptcy, expulsion or dissolution of a Member or the occurrence of any other event which terminates a Member's continued membership in the Company; provided, however, that the Company shall not dissolve pursuant to this Section 11.1.2 for so long as at least one remaining Member is solvent;

11.1.3 the sale, exchange or other transfer of all Company Property; or

11.1.4 the occurrence of any event under the Act that dissolves the Company.

11.2 **Statement of Intent to Dissolve**. As soon as possible after the occurrence of any event specified in Section 11.1 above, the Company shall execute a statement of intent to dissolve in such form as prescribed by the Secretary of State.

11.3 **Conduct of Business**. Upon the filing of the statement of intent to dissolve with the Secretary of State, the Company shall cease to carry on its business, except insofar as may be necessary for the orderly winding up of its business, but the Company's separate existence shall continue in accordance with the Act. If the Company is dissolved, the business and affairs of the Company shall thereupon be wound up by the Manager or, at the election of the Manager, by such person as shall be designated by the Manager (in either case, the "**Liquidator**"). As promptly as possible, and in any event within ninety (90) days following the dissolution and the winding up of the Company, the Liquidator shall file appropriate articles of dissolution for the Company with the Secretary of State pursuant to and in accordance with the applicable provisions of the Act.

11.4 **Distribution of Net Proceeds**. The Company shall continue to allocate Profits and Losses and distribute all remaining sums during the winding-up period in the same manner and the same priorities as provided for in Articles 4 and 5 hereof. The proceeds from the liquidation of Company Property shall be applied in the following order:

11.4.1 to the payment of creditors (other than to Members on account of their Capital Contributions or Member Loans), in the order of priority as provided by law;

11.4.2 to the establishment of such Reserves that the Liquidator reasonably deems necessary, appropriate or desirable for any contingent or unforeseen liabilities, debts or obligations of the Company and its Subsidiaries arising out of or in connection with the Company operations; and

11.4.3 to the Members in accordance with the order of priority set forth in Section 5.1.2 hereof. For purposes of the application of this Section 11.4.3 and determining Capital Accounts on liquidation, all unrealized gains, losses and accrued income and deductions of the Company will be treated as realized and recognized immediately before the date of the distribution.

Where the distribution pursuant to this Section 11.4 consists both of cash (or cash equivalents) and non-cash assets, the cash (or cash equivalents) shall first be distributed, in a descending order, to fully satisfy each category starting with the most preferred category above. In the case of non-cash assets, the distribution values are to be based on the fair market value thereof as determined in good faith by the Liquidator, and the shortest maturity portion of such non-cash assets (e.g., notes or other indebtedness) shall, to the extent such non-cash assets are readily divisible, be distributed, in a descending order, to fully satisfy each category above, starting with the most preferred category.

ARTICLE 12

INDEMNIFICATION OF THE MANAGER, MEMBERS AND THEIR AFFILIATES

12.1 Indemnification.

12.1.1 The Company shall defend, indemnify and hold harmless the Manager (in its capacity as the manager of the Company), each Member, the Affiliates of each Member (excluding any Affiliate of any Member, such as the Sponsor Operating Entity, who performs work or services for Company or its Subsidiary pursuant to an agreement and receives compensation, payment, or other consideration therefor on market terms), and/or their respective members, partners, shareholders, owners, officers, directors, managers, employees, agents and representatives (individually, an "Indemnitee") from and against any and all losses, claims, demands, costs, damages, liabilities, whether separate or joint and several, expenses of any nature (including reasonable attorneys' fees and disbursements), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings in which the Indemnitee may be involved, or threatened to be involved, as a party or otherwise, arising out of or in connection with the Business of the Company, regardless of whether the Indemnitee continues to be a Manager, Member, an Affiliate of a Manager or Member, or an officer, director, manager, member, partner, shareholder, owner, employee, agent or representative of the applicable Manager or Member, or an Affiliate of the applicable Manager or Member, at the time any such liability or expense is paid or incurred, in each case to the extent the Indemnitee's conduct did not constitute a Bad Act (*mutatis mutandis* with respect to each Member and each Affiliate of a Member or Manager). If any sum is due from the Company pursuant to this Section 12.1.1, then the Company shall be required to pay (or cause its Subsidiary(ies) to pay) such sum in accordance with Section 12.1.3 below.

12.1.2 The Manager and each Member shall defend, indemnify and hold harmless the Company and the other Members from and against any and all actual losses, claims, demands, costs, damages, liabilities, joint and several, expenses of any nature (including reasonable attorneys' fees and disbursements), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings in which the Company or any other Member may be involved, or threatened to be involved, as a party or otherwise, that are caused by a Bad Act of such Member. If any sum is due from the Manager or a Member pursuant to this Section 12.1.2, then (i) the Manager (or the Approving Member, if the liability or potential liability is caused by a Bad Act of the Manager or one of its Controlled Affiliates) shall deliver a Capital Call Notice to such Person to fund one hundred percent (100%) of such sum, and (ii) notwithstanding anything to the contrary in Section 12.1.1 or Article 9, (1) such Person shall be solely responsible for the entirety of such sum, (2) for the avoidance of doubt, the other Members shall not be required to make any Additional Capital Contribution in respect thereof, and (3) notwithstanding anything to the contrary in this Agreement, (y) any capital contributed by such Person shall not be treated as a Capital Contribution for purposes of this Agreement, and (z) to the extent (if any) federal income tax or other rules require such Person's Capital Account to be increased by such funding, gross items of deduction and/or loss shall be specially allocated to such Person in an amount equal to such funding.

12.1.3 If the Company and its Subsidiary(ies) do not have sufficient available cash to pay any sum due under Section 12.1.1 (each, an "Indemnity Obligation"), then the Manager shall deliver a Capital

Call Notice to each Member for each such Member to fund its Percentage Interest of Additional Capital Contributions in the amount of such Indemnity Obligation, and Article 9 shall apply thereto.

12.2 **Guarantee of Company Indebtedness; Loan Indemnity.** No Member shall enter into (or permit any Person related to the Member to enter into) any arrangement with respect to any liability of the Company or any Subsidiary that would result in such Member (or a Person related to such Member under Regulations Section 1.752-4(b)) bearing the economic risk of loss (within the meaning of Regulations Section 1.752-2) with respect to such liability unless such arrangement has been entered into in accordance with Section 6.4.

12.3 **Expenses.** Expenses incurred by an Indemnitee in defending any claim, demand, action, suit or proceeding subject to Section 12.1 or Section 12.2 shall, from time to time, be advanced by the Company prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Company of an undertaking by or on behalf of a Person who is, and whose creditworthiness is, reasonably acceptable to the Manager and Approving Member to repay such amount if it shall be determined that such Person is not entitled to be indemnified as authorized in Section 12.1 or Section 12.2. For the avoidance of doubt, each Member shall bear its own expenses (and shall not be entitled to reimbursement from the Company) with respect to fees or expenses incurred in connection with Section 6.9, and Articles 13 and 14 unless expressly provided otherwise herein.

12.4 **Indemnification Rights Non-Exclusive.** The indemnification provided by Section 12.1 shall be in addition to any other rights to which those indemnified may be entitled under this Agreement, any other agreement, as a matter of law or equity or otherwise, both as to action in the Indemnitee's capacity as a Member, as an Affiliate or as a member, partner, shareholder, officer, director, employee, agent or representative of a Member or an Affiliate of a Member and as to any action in another capacity, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors and assigns of the Indemnitee.

12.5 **Assets of the Company.** Any indemnification under Section 12.1 shall be satisfied solely out of the assets of the Company. No Member shall be subject to personal liability or required to fund or to cause to be funded any obligation by reason of these indemnification provisions.

ARTICLE 13

BUY/SELL

13.1 **Exercise of Buy-Sell Rights.** Upon (a) (i) Manager proposing any Major Decision (including the approval of the Budget or Business Plan, or revisions thereto, as provided in Section 6.3.3, but excluding any Sale Proposal during the first (1st) year after the date hereof) and Approving Member failing to approve the proposed Major Decision, (ii) such deadlock over such Major Decision remaining unresolved following good faith negotiations between Manager and Approving Member for a period of thirty (30) days after Notice of such deadlock is delivered by either Manager or Approving Member to the other, and (iii) Manager not withdrawing such proposal within five (5) days after the end of such thirty (30)-day period, or (b) the fourth (4th) anniversary of the date hereof and anytime thereafter, either Manager or Approving Member shall have the right set forth in this Article 13 (a "Buy-Sell Right"), and may exercise its Buy-Sell Right by giving a Buy-Sell Notice (as defined below) under this Section 13.1.

13.1.1 **General Provisions.** If either Approving Member or Manager elects to trigger its Buy-Sell Right as provided in this Section 13.1, such Member (together with any of its designees, the "Buy-Sell Triggering Member") may deliver to the other (together with any of its designees, the "Buy-Sell Non-Triggering Member") a Notice (the "Buy-Sell Notice") stating (i) that the Buy-Sell Triggering Member is exercising its Buy-Sell Right under this Section 13.1, (ii) that the terms of payment with respect to the Buy-

Sell Right shall be all cash at closing, and (iii) the Buy-Sell Triggering Member's determination of fair market value for the Property, free and clear of all liabilities secured by or otherwise relating to the Property (collectively with any and all cash and other assets related to the Property, the "**Property Valuation**"), and, based on such Property Valuation, the amount that would be distributed to each Member hereunder if the Property were sold free and clear of all liabilities secured by the Property at such Property Valuation (after taking into account customary and reasonable closing costs, including broker's commissions, sales taxes, and loan prepayment penalties that are payable in connection with such sale pursuant to the Buy-Sell Right, but excluding all sales taxes and loan prepayment penalties that are not payable in connection with such sale pursuant to the Buy-Sell Right and all transfer taxes), which shall determine the amount for which the Buy-Sell Non-Triggering Member shall either: (a) purchase the Buy-Sell Triggering Member's Entire Interest (the "**Sell-Out Price**") or (b) sell to the Buy-Sell Triggering Member the Buy-Sell Non-Triggering Member's Entire Interest (the "**Buy-Out Price**"). Any difference between the Buy-Out Price and the Sell-Out Price shall be based solely on the distributions the Members would be entitled to receive pursuant to Section 11.4 as if the Company were liquidating or dissolving and the Property was sold free and clear of all liabilities secured by the Property at a price equal to the Property Valuation. Notwithstanding the foregoing, (i) the Sell-Out Price shall be increased by the total amount due under any Member Loan made by the Buy-Sell Triggering Member that is outstanding as of the Buy-Sell Closing, and (ii) the Buy-Out Price shall be increased by the total amount due under any Member Loan made by the Buy-Sell Non-Triggering Member that is outstanding as of the Buy-Sell Closing. The Buy-Sell Notice shall constitute a demand that the Buy-Sell Non-Triggering Member either: (x) purchase the Buy-Sell Triggering Member's Entire Interest at the Sell-Out Price or (y) sell to the Buy-Sell Triggering Member the Buy-Sell Non-Triggering Member's Entire Interest at the Buy-Out Price.

13.1.2 Contents of Buy-Sell Notice; Purchase by Buy-Sell Triggering Member. The Buy-Sell Triggering Member shall, not later than three (3) Business Days after the delivery of the Buy-Sell Notice, deposit in escrow, in an interest-bearing account, with an escrow agent selected by the Buy-Sell Triggering Member, which agent shall be a nationally recognized title insurance company (the "**Buy-Sell Escrow Agent**") pursuant to a customary and reasonable escrow agreement, an amount equal to two and one-half percent (2.5%) of the Buy-Out Price (the "**Buy-Out Deposit**"). Within thirty (30) days after receipt of the Buy-Sell Notice (the "**Buy-Sell Election Period**"), the Buy-Sell Non-Triggering Member shall notify the Buy-Sell Triggering Member and the Buy-Sell Escrow Agent in writing of its election to buy or sell (the "**Buy-Sell Election Notice**") pursuant to the Buy-Sell Notice. If the Buy-Sell Non-Triggering Member elects to sell its Entire Interest or does not deliver a Buy-Sell Election Notice during the Buy-Sell Election Period (in which case it will be deemed to have elected to sell its Entire Interest), the Buy-Sell Triggering Member shall specify the closing date, time, and place for the purchase of all of the Buy-Sell Non-Triggering Member's Entire Interest, which closing date shall be at any time in the sixty (60) day period subsequent to the Buy-Sell Non-Triggering Member's election to sell its Entire Interest or the expiration of the Buy-Sell Election Period.

13.1.3 Purchase by Non-Triggering Member. If the Buy-Sell Non-Triggering Member elects to purchase the Buy-Sell Triggering Member's Entire Interest pursuant to Section 13.1.2, then simultaneously with delivery of the Buy-Sell Election Notice, the Buy-Sell Non-Triggering Member shall deliver an amount equal to two and one-half percent (2.5%) of the Sell-Out Price (the "**Sell-Out Deposit**") to the Buy-Sell Escrow Agent, pursuant to a customary and reasonable escrow agreement, at which time the Buy-Sell Non-Triggering Member shall specify the closing date, time, and place for the purchase of the Buy-Sell Triggering Member's Entire Interest, which shall not be later than the sixtieth (60th) day after the date the Buy-Sell Non-Triggering Member duly elected to purchase the Buy-Sell Triggering Member's Entire Interest. Upon such election by the Buy-Sell Non-Triggering Member, at the time and in the manner hereinafter described, the Buy-Sell Triggering Member shall be obligated to sell its Entire Interest to the Buy-Sell Non-Triggering Member at the Sell-Out Price on the date and at the time and place set forth in the Buy-Sell Election Notice, and upon receipt of the Buy-Sell Election Notice and the Buy-Out Deposit from the Buy-Sell Non-Triggering Member, the Buy-Sell Escrow Agent shall promptly return the Buy-Out Deposit previously deposited by the Buy-Sell Triggering Member to the Buy-Sell Triggering Member.

13.1.4 **Failure to Close.** If the purchasing Member shall wrongfully fail to close under the provisions in this Section 13.1, the selling Member may, in addition to the other rights hereunder, retain the Buy-Out Deposit or Sell-Out Deposit, as applicable (together with any interest accrued thereon) as liquidated damages or may elect to become the purchasing Member while retaining the right to the amount deposited in escrow (in which case the new purchasing Member shall notify the defaulting Member of the closing date, time, and place for the purchase of the defaulting Member's Entire Interest on the same terms as if the defaulting Member had elected to its sell its Entire Interest pursuant to a Buy-Sell Notice, except that the new purchasing Member will not be required to deposit any amounts in escrow and the provisions of this Article 13 shall be deemed amended to reflect the foregoing). If the selling Member shall wrongfully fail or refuse to close under the provisions in this Section 13.1, the purchasing Member may sue for damages or specific performance (together with enforcement costs). Notwithstanding anything to the contrary contained herein, any such defaulting party shall no longer have the right to deliver a Buy-Sell Notice, a Forced Sale Notice or initiate the transactions contemplated by this Article 13 or Article 14.

13.2 **Effect of No Election.** If the Buy-Sell Non-Triggering Member fails or refuses to make any election pursuant to the Buy-Sell Notice within the Buy-Sell Election Period, such failure or refusal to provide the Buy-Sell Election Notice in a timely fashion shall be deemed an election to sell. If any Member fails to post the required Buy-Out Deposit or Sell-Out Deposit, as applicable, with any Buy-Sell Notice or Buy-Sell Election Notice, such failure shall cause such notice to not be valid.

13.3 **Payment of Purchase Price.** Any closing for the purchase and sale of a Member's Entire Interest pursuant to this Article 13 shall be conducted in accordance with the terms and conditions described in this Article 13, all amounts deposited in escrow and the interest thereon pursuant to this Article 13 (and not returned hereunder) shall be applied to the purchase price at such closing and the remainder of the purchase price shall be paid in cash by wire transfer in immediately available funds.

13.4 **Closing.** At the closing (the "**Buy-Sell Closing**") of a sale and purchase of a Member's Entire Interest pursuant to this Article 13, the following transactions shall occur:

13.4.1 the purchasing Member shall pay or cause to be paid (or tender) to the selling Member the applicable purchase price (minus the Buy-Out Deposit, or the Sell-Out Deposit, as applicable, together with any interest accrued thereon, and as adjusted by the credits and apportionments herein set forth) for the Entire Interest being purchased;

13.4.2 the selling Member shall cause all transfer taxes, if any, and filing fees due and payable in connection with the sale and purchase of the Entire Interest to be paid and furnish the other Member with satisfactory proof of such payment; and if the selling Member fails to cause all such transfer taxes and filing fees to be paid, the other Member may cause such transfer taxes and filing fees to be paid and deduct the amount of such transfer taxes and filing fees from the purchase price;

13.4.3 the Buy-Out Price or Sell-Out Price, whichever is applicable, shall be adjusted to reflect the aggregate amount of all Capital Contributions, distributions and Member Loans made or repaid by or to the Members in the period between the date of the Buy-Sell Notice and the Buy-Sell Closing, as applicable, by performing the calculation set forth in Section 13.1.1 accounting for such adjusted circumstances, provided that the Property Valuation used in such calculation shall be increased by the aggregate amount of Capital Contributions made by the Members and decreased by the aggregate amount of any distributions to the Members;

13.4.4 upon receipt (or tender) of the Buy-Out Price or Sell-Out Price, whichever is applicable, the Entire Interest of the selling Member shall be deemed transferred and the selling Member shall convey and assign by assignment to the purchasing Member (or its designee) the Entire Interest of the selling Member, free and clear of all liens, claims and encumbrances (other than any lien, claim, or encumbrance that

is either expressly permitted by the purchasing Member or in favor of any third party lender that has made a loan to the Company), the purchasing Member shall execute and deliver an assumption agreement by which it assumes the obligations of the selling Member as a Member under this Agreement accruing from and after the date of the sale of such Interest to the purchasing Member, and shall deliver or tender to the selling Member an agreement pursuant to which the purchasing Member agrees to defend, indemnify, and hold harmless the selling Member from and against all losses, costs (including, reasonable attorneys' fees and costs of litigation), expenses, liabilities, and obligations which are attributable to the selling Member's Entire Interest accruing from and after the date of the Buy-Sell Closing;

13.4.5 the selling Member agrees and shall be obligated to defend, indemnify, and hold harmless the purchasing Member from and against all losses, costs (including, reasonable attorneys' fees and costs of litigation), expenses, liabilities and obligations which are attributable to the selling Member's Entire Interest prior to the date of the Buy-Sell Closing, and the selling Member shall execute and deliver to the purchasing Member all documents which may be reasonably requested by the purchasing Member to confirm and evidence the sale and purchase of such Interest;

13.4.6 if the selling Member or any of its Affiliates are Guarantors, then as a condition precedent to such purchase, the purchasing Member must (a) cause the Lender(s) who benefit from the applicable Loan Guaranty(ies) to deliver a Release to Guarantors with respect to any liabilities under such Loan Guaranty(ies) that accrue after the date of such purchase, or (b) if a Release is not obtained after sixty (60) days of good faith and commercially reasonable efforts by the purchasing Member, then cause an Affiliate of the purchasing Member who is, and whose creditworthiness is, reasonably acceptable to Guarantors to indemnify, defend, and hold harmless Guarantors from and against any and all liabilities under such Loan Guaranty(ies) that accrue after the date of such purchase; and

13.4.7 the Members shall execute all amendments to fictitious name, company or similar certificates necessary to reflect the withdrawal of the selling Member from the Company, the admission of any new Member to the Company, if applicable, the termination of the Company, or as may otherwise be required by law.

13.5 **Buy-Sell/Forced Sale Mechanics.** Notwithstanding anything contained in this Agreement to the contrary, (a) upon either Approving Member or Manager initiating its Buy-Sell Right under this Article 13, no Member shall be permitted to initiate its Forced Sale Right under Article 14 unless and until all applicable time periods with respect to the Buy-Sell Right being exercised under this Article 13 have elapsed, and (b) upon either Approving Member or Manager initiating its Forced Sale Right in accordance with Article 14, no Member shall be permitted to initiate its Buy-Sell Right under this Article 13 unless and until all applicable time periods with respect to the Forced Sale Right have elapsed.

13.6 **Buy-Sell Effect on Parker and Pradera.** If the purchasing Member hereunder is Manager, then in addition to, and simultaneously with the purchase of Approving Member's Interest, Manager shall be obligated to purchase from each of Parker and Pradera, and each of Parker and Pradera shall be obligated to sell to Manager, Parker's Entire Interest and Pradera's Entire Interest (respectively), on the same terms and conditions that pertain to Approving Member's Interest hereunder.

ARTICLE 14

FORCED SALE

14.1 Initiation of Forced Sale; Sale of Interest.

14.1.1 **General Provisions.** Upon (a) (i) Manager proposing any Major Decision (including the approval of the Budget or Business Plan, or revisions thereto, as provided in Section 6.3.3, but excluding

any Sale Proposal during the first (1st) year after the date hereof) and Approving Member failing to approve the proposed Major Decision, (ii) such deadlock over such Major Decision remaining unresolved following good faith negotiations between Manager and Approving Member for a period of thirty (30) days after Notice of such deadlock is delivered by either Manager or Approving Member to the other, and (iii) Manager not withdrawing such proposal within five (5) days after the end of such thirty (30)-day period, or (b) the fourth (4th) anniversary of the date hereof and anytime thereafter, each of Manager and Approving Member shall have, subject to Section 13.5, the right to sell (as applicable, and together with any of its designees, the “**FS Triggering Member**”) the Property pursuant to this Article 14 (a “**Forced Sale Right**”), by delivering Notice (a “**Forced Sale Notice**”) to the other Member (together with any of its designees, the “**FS Non-Triggering Member**”) setting forth its determination of fair market value (the “**Forced Sale Price**”), in U.S. dollars, of the Property, free and clear of all liabilities secured by or otherwise relating to the Property. Upon request from Approving Member, Manager shall provide Approving Member with the Company’s most recent financial statements, a current rent roll from the Subsidiary(ies), the leases to which the Subsidiary(ies) are a party, and any other material contracts with the Company or any Subsidiary, and any other information reasonably requested by Approving Member to evaluate and/or determine the Forced Sale Price.

14.1.2 Acceptance Period. Within a period of thirty (30) days following the delivery of the Forced Sale Notice (the “**Forced Sale Election Period**”), the FS Non-Triggering Member shall have the right to deliver to the FS Triggering Member a Notice (the “**Forced Sale Election Notice**”) stating its desire to purchase the FS Triggering Member’s Entire Interest; *provided*, however, that not later than three (3) Business Days after the giving of the Forced Sale Election Notice, FS Non-Triggering Member shall deliver to a nationally recognized title insurance company, as escrow agent pursuant to a customary and reasonable escrow agreement, a deposit (the “**Forced Sale Deposit**”) in an amount equal to two and one-half percent (2.5%) of the Forced Sale Purchase Price.

14.1.3 Purchase Price. Following the delivery of the Forced Sale Notice, the Manager or the Approving Member shall request the Approved Accountants to promptly calculate the total amount of money that (i) would be paid to the FS Triggering Member to satisfy any Member Loan made by the FS Triggering Member that is outstanding as of the FS Closing Date, and (ii) would be distributed to the FS Triggering Member pursuant to Section 11.4 as if the Company were liquidating or dissolving and the Property was sold for cash in an amount equal to the Forced Sale Price set forth in the Forced Sale Notice (and any cash or other assets pertaining to the Property were liquidated and distributed to the Members) (collectively, the “**Forced Sale Purchase Price**”). Notwithstanding the foregoing, for purposes of such calculation, there shall be deducted an amount equal to the customary transaction expenses (including broker’s commissions and all sale taxes and loan prepayment penalties that are payable in connection with such sale pursuant to the Forced Sale Right, but excluding all sales taxes and loan prepayment penalties that are not payable in connection with such sale pursuant to the Forced Sale Right and all transfer taxes) which would be incurred if the Property was sold for the Forced Sale Price (such amount to be reasonably determined by the Approved Accountants in a manner consistent with then customary market practices for similar properties). The failure of the Approved Accountants to complete the calculation of the Forced Sale Purchase Price prior to the last day of the Forced Sale Election Period shall not extend the Forced Sale Election Period.

14.2 **Entire Interest Closing Date**.

14.2.1 Entire Interest Closing Date. If the FS Non-Triggering Member timely gives the Forced Sale Election Notice and delivers the Forced Sale Deposit as provided in Section 14.1.2, then on or before the seventy-fifth (75th) day after receipt of the Forced Sale Election Notice, the FS Non-Triggering Member shall purchase from the FS Triggering Member, and the FS Triggering Member shall sell to the FS Non-Triggering Member, the FS Triggering Member’s Entire Interest for the Forced Sale Purchase Price, subject to the further terms and conditions hereof (the “**FS Closing Date**”). On the FS Closing Date:

(a) The FS Non-Triggering Member shall pay or cause to be paid (or tender) to the FS Triggering Member the Forced Sale Purchase Price (minus the Forced Sale Deposit, together with any interest accrued thereon, and as adjusted by the credits and apportionments herein set forth) for the Entire Interest being purchased;

(b) The FS Triggering Member shall cause all transfer taxes, if any, and filing fees due and payable in connection with the sale and purchase of the Entire Interest to be paid and furnish the FS Non-Triggering Member with satisfactory proof of such payment;

(c) the Forced Sale Purchase Price shall be adjusted to reflect the aggregate amount of all Capital Contributions, distributions, and Member Loans made or repaid by or to the Members in the period between the date of the Forced Sale Notice and the FS Closing Date, as applicable, by performing the calculation set forth in Section 14.1.3 taking into account such adjusted circumstances, provided that the Forced Sale Price used in such calculation shall be increased by the aggregate amount of Capital Contributions made by the Members and decreased by the aggregate amount of any distributions to the Members;

(d) if the FS Triggering Member or any of its Affiliates are Guarantors, then as a condition precedent to such purchase, the FS Non-Triggering Member must (a) cause the Lender(s) who benefit from the applicable Loan Guaranty(ies) to deliver a Release to Guarantors with respect to any liabilities under such Loan Guaranty(ies) that accrue after the date of such purchase, or (b) if a Release is not obtained after sixty (60) days of good faith and commercially reasonable efforts by the FS Non-Triggering Member, then cause an Affiliate of the FS Non-Triggering Member who is, and whose creditworthiness is, reasonably acceptable to Guarantors to indemnify, defend, and hold harmless Guarantors from and against any and all liabilities under such Loan Guaranty(ies) that accrue after the date of such purchase;

(e) upon receipt (or tender) of the purchase price, the Entire Interest of the FS Triggering Member shall be deemed transferred and FS Triggering Member shall convey and assign by assignment to the FS Non-Triggering Member the Entire Interest of the FS Triggering Member, free and clear of all liens, claims and encumbrances (other than any lien, claim, or encumbrance that is either expressly permitted by the FS Non-Triggering Member or in favor of any third party lender that has made a loan to the Company), the FS Non-Triggering Member shall execute and deliver an assumption agreement by which it assumes the obligations of the FS Triggering Member as a Member(s) under this Agreement accruing from and after the FS Closing Date, and shall deliver or tender to the FS Triggering Member an agreement pursuant to which the FS Non-Triggering Member agrees to defend, indemnify, and hold harmless the FS Triggering Member from and against all losses, costs (including, without limitation, reasonable attorneys' fees and costs of litigation), expenses, liabilities, and obligations which are attributable to the FS Triggering Member's Entire Interest accruing from and after the date of such sale;

(f) the FS Triggering Member agrees and shall be obligated to defend, indemnify, and hold harmless the FS Non-Triggering Member and its Affiliates from and against all losses, costs (including reasonable attorneys' fees and costs of litigation), expenses, liabilities and obligations which are attributable to the FS Triggering Member's Entire Interest prior to the date of the FS Closing Date, and the FS Triggering Member shall execute and deliver to the FS Non-Triggering Member and its Affiliates all documents which may be reasonably requested by the FS Non-Triggering Member to confirm and evidence the sale and purchase of such Interest; and

(g) the Members shall execute all amendments to fictitious name, company or similar certificates necessary to reflect the withdrawal of the FS Triggering Member from the Company, the admission of any new Member to the Company, if applicable, the termination of the Company, or as may otherwise be required by law.

14.2.2 **Interest Default.** If FS Triggering Member shall default in its obligation to close the sale of its Entire Interest contemplated by this Article 14 on the FS Closing Date, then the FS Non-Triggering Member may seek specific performance of the FS Triggering Member's obligations or pursue its remedies at law or in equity (in either such case the FS Non-Triggering Member shall be entitled to the return of the Forced Sale Deposit, together with all interest accrued thereon). If the FS Non-Triggering Member shall default in its obligation to close the purchase of the FS Triggering Member's Entire Interest contemplated by this Article 14 on the FS Closing Date, then the FS Triggering Member shall be entitled to retain the Forced Sale Deposit, together with all interest accrued thereon, as liquidated damages, and then sell the Property pursuant to Section 14.4. Notwithstanding anything to the contrary contained herein, any such defaulting party shall no longer have the right to deliver a Buy-Sell Notice, a Forced Sale Notice or initiate the transactions contemplated by Article 13 or this Article 14.

14.3 **Intentionally Omitted.**

14.4 **Sale of Property.**

14.4.1 If the FS Non-Triggering Member (a) fails to timely deliver a Forced Sale Election Notice to the FS Triggering Member pursuant to Section 14.1.2 or delivers Notice that it does not elect to purchase the FS Triggering Member's Entire Interest (but the FS Non-Triggering Member shall nonetheless, within fifteen (15) days after the end of the Forced Sale Election Period, provide Notice to the Company and the FS Triggering Member evidencing the FS Non-Triggering Member's declining (or deemed declining) of the right to purchase the FS Triggering Member's Entire Interest), (b) fails to timely deliver the Forced Sale Deposit when due, or (c) defaults in its obligation to close the purchase of the Entire Interest held by the FS Triggering Member to Section 14.2, then in each case the FS Triggering Member shall have the right, and each other Member hereby irrevocably authorizes the FS Triggering Member, to sell the Property pursuant to the provisions of this Section 14.4.

14.4.2 The sale of the Property may be made in any commercially reasonable manner, either directly by the FS Triggering Member or through investment bankers or real estate brokers for a commission, and on other terms that are "market" as reasonably determined by the FS Triggering Member. The FS Triggering Member shall use commercially reasonable efforts to keep the FS Non-Triggering Member informed regarding the progress of the sale of the Property but the FS Non-Triggering Member shall not have any consent or veto rights with respect thereto. In addition, the FS Triggering Member and the FS Non-Triggering Member shall reasonably cooperate with each other in good faith regarding the sales process and the FS Non-Triggering Member will make itself reasonably available, at the request of the FS Triggering Member, to discuss the terms and conditions of the sale of the Property with any potential purchaser.

14.4.3 In connection with the sale of the Property pursuant to this Article 14, the Company and each Member shall reasonably cooperate with each other to execute all documents and take all other actions at no out-of-pocket expense, which the FS Triggering Member determines are necessary or advisable to achieve the sale of the Property; *provided, however,* that if the FS Non-Triggering Member does not cooperate with a reasonable request by the FS Triggering Member to execute any document or take any other action at no out-of-pocket expense that is reasonable or necessary in connection with such sale following five (5) Business Days' written notice to the FS Non-Triggering Member, then the FS Triggering Member shall send a second Notice to the FS Non-Triggering Member specifying the document or action at issue, and two (2) Business Days thereafter, if the FS Non-Triggering Member shall not have performed any such required action (i) the FS Triggering Member shall be authorized to sign any document, make any payment and take such other action on behalf of the Company and any Subsidiary that the FS Triggering Member determines is necessary or advisable for the FS Triggering Member to achieve the sale of the Property pursuant to this Article 14, (ii) the FS Triggering Member shall be permitted to act alone on behalf of the Company, the Subsidiaries and the other Members pursuant to this Article 14 without any requirement for any signature, consent, approval or other action by any other Member, and (iii) at the request of the FS Triggering Member, the FS Non-Triggering

Member agrees to sign any document and take any other action that the FS Triggering Member may reasonably request so that the sale of the Property pursuant to this Article 14 can be completed successfully.

If the FS Triggering Member is not able to consummate the sale of the Property within one hundred eighty (180) days of the applicable period at a gross sale price (without deduction for any brokerage or similar fees or other transaction costs payable in connection with such sale) equal to or greater than ninety-five percent (95%) of the Forced Sale Price, and the FS Triggering Member nevertheless desires to proceed with such sale at the highest available aggregate gross sale price received (without deduction for any brokerage or similar fees or other transaction costs payable in connection with such sale) for the Property (such price, the "**Reduced Sale Price**"), the FS Triggering Member shall so notify the FS Non-Triggering Member in writing and the FS Non-Triggering Member shall again have the right to elect to purchase the Entire Interest of the FS Triggering Member on the basis of such Reduced Sale Price and otherwise in accordance with the procedures described in Section 14.2, except that the FS Non-Triggering Member must make its election to purchase the Entire Interest of the FS Triggering Member within fifteen (15) Business Days after its receipt of the notice from the FS Triggering Member referred to in this sentence. If the FS Non-Triggering Member does not make such an election within such fifteen (15) Business Day period, then the FS Triggering Member shall have the right to sell the Property at the Reduced Sale Price and on such other terms as it deems reasonable and proper.

If either Manager or Approving Member exercise the Forced Sale Right, the parties shall use commercially reasonable efforts to complete a sale within a period, if any, when any Loan may be repaid without a prepayment penalty or yield maintenance fee.

14.5 FS Effect on Parker and Pradera. If the Forced Sale Triggering Member is Approving Member hereunder and Manager delivers a Forced Sale Election Notice, then in addition to, and simultaneously with the purchase of Approving Member's Entire Interest, Manager shall be obligated to purchase from each of Parker and Pradera, and each of Parker and Pradera shall be obligated to sell to Manager, Parker's Entire Interest and Pradera's Entire Interest (respectively) on the same terms and conditions that pertain to Approving Member's Entire Interest hereunder.

ARTICLE 15

REPRESENTATIONS AND WARRANTIES

15.1 Representations and Covenants by the Members. Each Member represents, warrants, covenants, acknowledges and agrees to the other Members that:

15.1.1 Due Formation; Valid Existence; Authority. Such Member (a) is a limited liability company duly organized or formed and validly existing and in good standing under the laws of the state of its organization or formation, (b) has the requisite limited liability power, as applicable, and authority to enter into this Agreement, to acquire and hold its Interest and to perform its obligations hereunder, (c) has the authority to execute, deliver and perform under this Agreement, and (d) has obtained any consent, approval, authorization or order of any court or governmental agency or body required for its execution, delivery and performance of this Agreement.

15.1.2 No Conflict. Such Member's execution and delivery of this Agreement and its performance of its obligations hereunder will not (a) conflict with, result in a breach of or constitute a default (or any event that, with notice or lapse of time, or both, would constitute a default) or result in the acceleration of any obligation under any of the terms, conditions or provisions or, any other agreement or instrument to which it is a party or by which it is bound or to which any of its property or assets is subject, (b) conflict with or violate any of the provisions of its organizational documents, or (c) violate any statute or any order, rule or regulation of any court or governmental or regulatory agency, body or officials.

15.1.3 No Litigation. There is no action, suit or proceeding pending against such Member, or, to the best of its knowledge, threatened against such Member in any court or by or before any other governmental agency or instrumentality that would prohibit its entry into or performance of its obligations hereunder.

15.1.4 Binding Agreement; Enforceability. This Agreement is a binding agreement on the part of such Member enforceable in accordance with its terms against such Member.

15.1.5 Experience. Prior to the execution hereof, such Member has been advised to and has engaged its own counsel (whether in-house or external) and any other advisers it deems necessary and appropriate regarding all legal, tax and financial matters concerning an investment in the Company and the tax consequences of participating in the Company, and has done so, to the extent it considers necessary. Nothing in this Agreement should or may be construed to allow any Member to rely upon the advice of counsel acting for any other Member or to create an attorney-client relationship between a Member and counsel for any other Member.

15.1.6 Investment Risk. Such Member acknowledges and agrees that the Interest is a speculative investment, which involves a substantial degree of risk of loss by it of its entire investment in the Company, and that it understands and takes full cognizance of the risk factors related to purchase of the Interest, including that the Company is newly organized and has no financial or operating history. Such Member is financially able to bear the economic risk of its investment in its Interest, including the total loss thereof.

15.1.7 Investment Intent. The Interests have not been registered and will not be registered under the Securities Act, the securities laws of any state or territory of the United States, or applicable laws of any foreign jurisdiction.

15.1.8 No Registration of Interest. The issuance of the Interests is being made privately by the Company pursuant to the private placement exemption from registration provided by Section 4(2) of the Securities Act and Regulation D thereunder. Such Member understands that the Company will not register as an investment company under the Investment Company Act of 1940, as amended, in reliance upon an exemption from registration thereunder in Section 3(c)(7) thereof, and that for purposes of the provisions of Section 3(c)(7) thereof, the Company does not presently propose to make a public offering of its securities within the United States.

15.1.9 Restrictions on Transferability. Such Member acknowledges that there are substantial restrictions on the transferability of the Interest pursuant to this Agreement, that there is no public market for the Interest and none is expected to develop, and that, accordingly, it may not be possible for it to liquidate its investment in the Company.

15.1.10 No Disposition in Violation of Law. Without limiting the representations set forth above, and without limiting the terms, conditions, and rights set forth in Article 8 of this Agreement, such Member will not make a Transfer of all or any part of the Interest or any direct or indirect ownership interest in it which will result in the violation by it or the Company of the Securities Act or any other applicable securities laws.

15.1.11 No Representations by Company. No Person has at any time expressly or impliedly represented, guaranteed, or warranted to it that (a) it may freely transfer the Interest, (b) a percentage of profit and/or amount or type of consideration will be realized as a result of an investment in the Interest, (c) past performance or experience on the part of the Members represented in the Company or their respective Affiliates in any way indicates a predictable result from the ownership of the Interest or of the overall Company business or that of its Subsidiaries, (d) any cash distributions from Company operations or otherwise will be made to

the Members represented by any specific date or will be made at all, or (e) any specific tax benefits will accrue as a result of an investment in the Company.

15.1.12 Intentionally Omitted.

15.1.13 Tax Consequences. The tax consequences of such Member's investment in the Company will depend on its particular circumstances, and neither the Company, the Subsidiaries, the Members, their Affiliates nor any of their respective members, partners, shareholders, officers, directors, employees, agents, representatives, consultants, fiduciaries and trustees will be responsible or liable for the legal, tax or financial consequences to it of an investment in the Company. Such Member will look solely to, and rely upon, its own advisers with respect to the tax consequences of this investment.

15.1.14 OFAC. (a) Each Person directly or indirectly owning a ten percent (10%) or greater interest in such Member is not a Prohibited Person and (b) such Member has implemented procedures, and will consistently apply those procedures, to ensure the foregoing remains true and correct at all times. This Section 15.1.14 shall not apply to any Person to the extent that such Person's interest in the Member is through either (x) a Person (other than an individual) whose securities are listed on a national securities exchange, or quoted on an automated quotation system, in the United States, or a wholly owned subsidiary of such a Person or (y) an "employee pension benefit plan" or "pension plan" as defined in Section 3(2) of the Employee Retirement Income Security Act of 1974, as amended.

15.1.15 Patriot Act. Such Member is in compliance with all OFAC/Patriot Act Laws and has policies, procedures, internal controls and systems that are reasonably designed to ensure such compliance.

15.1.16 U.S. Person. Such Member is a "United States person" as defined in Section 7701(a)(30) and is not a "grantor trust" within the meaning of Section 671-679 of the Code, unless the U.S. federal tax owner of such grantor trust's assets is (and will be) a "United States person".

15.1.17 ERISA. Such Member is not a "benefit plan investor" (within the meaning of the Plan Asset Regulation).

Such Member covenants that the foregoing representations and warranties will be true, correct and complete at all times during the term of the Company (and, if the Company is dissolved prior to the disposition of all of its assets, then until such later time as such disposition has occurred).

15.2 Additional Representations and Covenants by Manager and Approving Member.

15.2.1 In addition to the representations and warranties made elsewhere in this Agreement (including in Section 15.1), Manager represents, covenants and warrants to Approving Member that the following is true and correct as of the date hereof, and following the date hereof, Manager shall cause the following to continue to be true and correct: (a) at least one of Matt, Nate, and Craig, whether directly or indirectly, subject to investment committee approvals and/or major decision approval rights, Controls (and shall Control) Manager; (b) the Manager Principals shall, collectively and whether directly or indirectly, Control Sponsor Operating Entity and own at least ten percent (10%) of the equity and other ownership interests in Sponsor Operating Entity; and (c) no Key Principal Change will occur (the "Control and Ownership Requirement").

15.2.2 In addition to the representations and warranties made elsewhere in this Agreement (including in Section 15.1), the Approving Member represents, covenants and warrants to the Manager that the following is true and correct as of the date hereof, and following the date hereof, the Approving Member shall cause the following to continue to be true and correct: Polsky or an Approved Successor, whether directly or indirectly, Controls (and shall Control) the Approving Member.

15.3 Acquisition Representations by R2. 1357 R2 Investor, LLC, a Delaware limited liability company (“**1357 R2**”), represents to Approving Member as of the date of the Existing Operating Agreement:

15.3.1 To its actual knowledge, copies of all environmental reports, surveys, title commitments, recorded title documents, and leases concerning the Property that have been received by Manager have been made available to Approving Member, and before the closing of the acquisition of the Property (the “**Closing**”), Manager shall use commercially reasonable efforts to deliver to Approving Member updates thereto, if any, promptly after receipt thereof.

15.3.2 Except for the Acquisition Fee and any and all commissions referenced in the Purchase Agreement or any Lease, no broker, agent, or finder is entitled to (or was paid) any commission, fee or similar compensation with respect to this Agreement, any financing affecting the Property, or otherwise in connection with the transaction contemplated by this Agreement that may be asserted against the Company, any Subsidiary, or the Property resulting from an agreement made by Manager or its Affiliates.

15.3.3 Except as disclosed in documents made available to Approving Member, to its actual knowledge, (i) the Property has not previously been used as a landfill, a dump for either garbage or refuse, or a site where hazardous materials have been stored, treated, or disposed of (except in accordance with applicable law), and hazardous materials are not present and have never been present on, in or under the Property (except in accordance with applicable law), and (ii) there are no statutes, orders, rules or regulations relating to environmental matters requiring any work, repairs, construction or capital expenditures on the Property due to an environmental condition actually known to Manager as of the date hereof.

15.3.4 To its actual knowledge, except as disclosed in documents made available to Approving Member, there is no suit or proceeding currently pending or threatened that (i) affects the Property, and (ii) could materially and adversely affect the Property or the value thereof.

15.3.5 No documents made available to Approving Member by Manager have been intentionally changed in form or content by Manager for the purpose of misleading Approving Member, between the receipt of same by Manager and delivery thereof to Approving Member that has not been disclosed to Approving Member.

15.3.6 Except as disclosed in documents made available to Approving Member, to its actual knowledge, the ownership, operation, use, and occupancy of the Property do not materially violate any applicable zoning, building, health, flood control, fire or other laws, ordinances, orders, regulations, statutes, rules, requirements, covenants, and codes.

15.3.7 Other than as otherwise disclosed to Approving Member or contained in this Agreement (including any exhibit hereto) or the Purchase Agreement, neither Manager nor any of its Affiliates are entitled to any fees or commissions in connection with the transaction contemplated by this Agreement.

15.3.8 To its actual knowledge, the Company has no material assets other than (i) its membership interests in the Property Owner, and (ii) any part of the Initial Capital Contributions not used in connection with the purchase of the Property or contributed to the capital of Property Owner, which amounts shall be held in an account for the sole benefit of Company and Property Owner (as applicable).

15.3.9 To its actual knowledge, no Bankruptcy Action is pending or threatened against Manager or any of its Affiliates.

15.3.10 To its actual knowledge, Property Owner has not been, and is not, (a) in default of its obligations under the Purchase Agreement or (b) in default in any material respect under any materially important agreement to which Property Owner is a party.

15.4 Additional Representations by Manager. Manager represents to Approving Member as of the date hereof:

15.4.1 To its actual knowledge, copies of all environmental reports, surveys, title commitments, recorded title documents, and leases concerning the Property that have been received by Manager have been made available to Approving Member.

15.4.2 Except for the Acquisition Fee and any and all commissions referenced in the Purchase Agreement or any Lease, no broker, agent, or finder is entitled to any commission, fee or similar compensation with respect to this Agreement, any financing affecting the Property, or otherwise in connection with the transaction contemplated by this Agreement that may be asserted against the Company, any Subsidiary, or the Property resulting from an agreement made by Manager or its Affiliates.

15.4.3 Except as disclosed in documents made available to Approving Member, to its actual knowledge, (i) the Property has not previously been used as a landfill, a dump for either garbage or refuse, or a site where hazardous materials have been stored, treated, or disposed of (except in accordance with applicable law), and hazardous materials are not present and have never been present on, in or under the Property (except in accordance with applicable law), and (ii) there are no statutes, orders, rules or regulations relating to environmental matters requiring any work, repairs, construction or capital expenditures on the Property due to an environmental condition actually known to Manager as of the date hereof.

15.4.4 To its actual knowledge, except as disclosed in documents made available to Approving Member, there is no suit or proceeding currently pending or threatened that (i) affects the Property, and (ii) could materially and adversely affect the Property or the value thereof.

15.4.5 To its actual knowledge, no documents made available to Approving Member by Manager have been intentionally changed in form or content by Manager for the purpose of misleading Approving Member, between the receipt of same by Manager and delivery thereof to Approving Member that has not been disclosed to Approving Member.

15.4.6 Except as disclosed in documents made available to Approving Member, to its actual knowledge, the ownership, operation, use, and occupancy of the Property do not materially violate any applicable zoning, building, health, flood control, fire or other laws, ordinances, orders, regulations, statutes, rules, requirements, covenants, and codes.

15.4.7 Other than as otherwise disclosed to Approving Member or contained in this Agreement (including any exhibit hereto) or the Purchase Agreement, neither Manager nor any of its Affiliates are entitled to any fees or commissions in connection with the transaction contemplated by this Agreement.

15.4.8 To its actual knowledge, the Company has no material assets other than (i) its membership interests in the Property Owner, and (ii) any unused Capital Contributions, which amounts shall be held in an account for the sole benefit of Company and Property Owner (as applicable).

15.4.9 To its actual knowledge, no Bankruptcy Action is pending or threatened against Manager or any of its Affiliates.

15.4.10 To its actual knowledge, Property Owner has not been, and is not, (a) in default of its obligations under the Purchase Agreement or (b) in default in any material respect under any materially important agreement to which Property Owner is a party.

15.4.11 The Non-Ownership Requirements are met. Excluding Sponsor Operating Entity, Sponsor, and Sponsor's subsidiaries, (i) none of R2 Companies, Matt, Nate, or any of their respective

Controlled Affiliates owns (whether directly or indirectly) any interest in Blue Star, 16 OC, any of their respective Controlled Affiliates, or any Controlled Affiliate of Craig, and (ii) none of Craig, Blue Star, 16 OC, or any of their respective Controlled Affiliates owns (whether directly or indirectly) any interest in R2 Companies or any Controlled Affiliate of Matt or Nate.

Whenever a representation is qualified by the phrase “to its actual knowledge”, or by words of similar import, the accuracy of such representation shall be based solely on the actual (as opposed to constructive or imputed) knowledge of Matt and Nate, without independent investigation or inquiry. Skydeck Group acknowledges that Matt and Nate are named solely for the purpose of defining the scope of Manager’s knowledge and not for the purpose of imposing any liability on or creating any duties running from the Matt or Nate to Skydeck Group, any other Member, the Company, or any Subsidiary, and all Members agree that neither Matt nor Nate shall have any personal liability under this Agreement or in connection with the transactions contemplated hereby. To the extent that, as of the date hereof, any of the constituents of the Skydeck Group obtains actual knowledge or is deemed to know that Manager’s representations or warranties are inaccurate, untrue or incorrect in any way, such representations and warranties shall be deemed modified to reflect such actual or deemed knowledge as of the date hereof. Skydeck Group shall be “deemed to know” of the existence of a fact or circumstance to the extent that such fact or circumstance is disclosed by this Agreement, or is contained in any studies, tests, reports, or analyses made available to Skydeck Group in connection with the Property or to the extent any of same contains information which is inconsistent with such representation or warranty.

ARTICLE 16

MISCELLANEOUS PROVISIONS

16.1 **Counterparts**. This Agreement may be executed in several counterparts, and all counterparts so executed shall constitute one Agreement, binding on all of the parties hereto, notwithstanding that all of the parties are not signatories to the original or the same counterpart. To facilitate execution of this Agreement, the parties may execute and exchange by email in PDF format counterparts of the signature pages, which shall be deemed an original.

16.2 **Survival of Rights**. This Agreement shall be binding upon the parties hereto and their respective executors, administrators, legal representatives, heirs, successors and permitted assigns, and shall inure to the benefit of the parties hereto and, except as otherwise expressly provided in this Agreement, their respective executors, administrators, legal representatives, heirs, successors and permitted assigns.

16.3 **Severability**. In the event any Section, or any sentence within any Section, is declared by a court of competent jurisdiction to be void or unenforceable, such sentence or Section shall be deemed severed from the remainder of this Agreement and the balance of this Agreement shall remain in full force and effect.

16.4 **Notification or Notices**. In order to be effective, all notifications or notices, consents, approvals and disapprovals required or permitted by this Agreement to be given (each, a “**Notice**”, and collectively, the “**Notices**”) must be in writing and (a) delivered by nationally recognized overnight delivery service, (b) placed in the United States mail, registered with return receipt requested, properly addressed and with the full postage prepaid, (c) personally delivered or (d) electronic email transmission (including via .pdf files), with confirmation of receipt from recipient (that is not automatically generated). Notices shall be deemed received and effective (i) if sent as described in subdivisions (a), (b), or (c) above, on the date actually received or the date delivery is refused, and (ii) if sent as described in subdivision (d) above, upon confirmation of receipt from the recipient (that is not automatically generated). Notices must be addressed in each case, as follows:

If to Manager, to:

1357 Sponsor, LLC
% R2 Companies, LLC
1200 N. North Branch St., #200
Chicago, IL 60642
Attention: Matthew G. Garrison, Max Meyers, and Brendon Martin, Esq.
Email: mg@r2.me, mmeyers@r2.me, and bmartin@r2.me

With a copy to (which shall not constitute a Notice):

1357 Sponsor, LLC
% Blue Star Properties, Inc.
600 W. Van Buren, Suite 1000
Chicago, IL 60607
Attention: Craig Golden
Email: craig@bluestarproperties.net

If to Skydeck or Parker, to:

Skydeck Real Estate I LLC
% Polsky Holdings, Inc.
1 S. Wacker Dr., Suite 1810
Chicago, IL 60606
Attention: Tim Parker
Email: statements@polskyholdings.com / tparker@polskyholdings.com

With a copy to (which shall not constitute a Notice):

Walker Wilcox Matousek LLP
1 N. Franklin Street, Suite 3200
Chicago, IL 60606
Attention: Don Manikas
Email: dmanikas@walkerwilcox.com

If to Pradera, to:

Pradera Investments, LLC
% Jonathan Taiber
250 State Street, Apartment 208
Cedar Falls, IA 50613
Email: jtaiber@live.com

Notices shall be valid only if served in the manner provided above. Notices may be sent by the attorneys for the respective parties and each such Notice so served shall have the same force and effect as if sent by such party. Each party will be entitled to change its address for purposes of notice in writing, communicated in the manner in accordance with the provisions of this Section 16.4.

16.5 Construction. The language in all parts of this Agreement shall be in all cases construed simply according to its fair meaning and not strictly for or against any of the Members.

16.6 Section Headings. The captions of the Certificate of Formation or Sections in this Agreement are for convenience only and in no way define, limit, extend or describe the scope or intent of any of the provisions hereof, shall not be deemed part of this Agreement and shall not be used in construing or interpreting the Agreement.

16.7 **Governing Law.** This Agreement shall be construed according to the internal laws, and not the laws pertaining to choice or conflict of laws (to the extent they would permit the application of the laws of any other jurisdiction), of the State of Delaware.

16.8 **Further Actions.** Each of the Members agrees to execute, acknowledge and deliver such additional documents, and take such further actions, as may reasonably be required from time to time to carry out each of the provisions, and the intent of the Agreement, and every agreement or document relating hereto, or entered into in connection herewith.

16.9 **Consent to Jurisdiction.** Each party hereto hereby irrevocably consents and agrees, for the benefit of each party, that any legal action, suit or proceeding against it with respect to its obligations, liabilities or any other matter under or arising out of or in connection with this Agreement and with respect to the enforcement, modification, vacation or correction of an award rendered in an arbitration proceeding may be brought in any state or federal court located in the City of Chicago, Illinois (a “**Chicago Court**”), and hereby irrevocably accepts and submits to the non-exclusive jurisdiction of each Chicago Court, as the case may be, with respect to any such action, suit or proceeding. Each party hereto also hereby irrevocably consents and agrees, for the benefit of each other party, that any legal action, suit or proceeding against it shall be brought in any Chicago Court, and hereby irrevocably accepts and submits to the exclusive jurisdiction of each such Chicago Court with respect to any such action, suit or proceeding. Each party hereto waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings brought in any such Chicago Court and hereby further waives and agrees not to plead or claim in any such Chicago Court that any such action, suit or proceeding brought therein has been brought in an inconvenient forum. Nothing herein shall be construed as limiting the provisions of Section 6.9.2, providing that the disputes described therein must be arbitrated.

16.10 **Third-party Beneficiaries.** Except as expressly provided herein or in the Act (including Indemnitees entitled to the benefits of Section 12.1), this Agreement is for the sole benefit of the Members and their respective permitted successors and assignees, and shall not confer directly, indirectly, contingently, or otherwise, any rights or benefits on any person or party other than the Members and their permitted successors and assigns.

16.11 **Partition.** The Members hereby agree that no Member nor any successor-in-interest to any Member shall have the right to have any of the Company Property partitioned, or to file a complaint or institute any proceeding at law or in equity to have any of the Company Property partitioned, and each Member, on behalf of himself, his successors, representatives, heirs and assigns, hereby waives any such right.

16.12 **Entire Agreement.** This Agreement and the Certificate of Formation constitute the entire agreement of the Members with respect to, and supersedes all prior written and oral agreements, understandings and negotiations with respect to, the subject matter hereof.

16.13 **Amendments.** The terms and provisions of this Agreement may only be modified or amended by a written agreement executed by all Members.

16.14 **Waiver.** No failure by any party to insist upon the strict performance of any covenant duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

16.15 **Attorneys' Fees.** Except as otherwise provided herein, in the event of any litigation, arbitration or other dispute arising as a result of or by reason of this Agreement, the prevailing party in any such litigation, arbitration or other dispute shall be entitled to, in addition to any other damages assessed, its reasonable attorney fees, and all other costs and expenses incurred in connection with settling or resolving such dispute. The attorneys' fees which the prevailing party is entitled to recover shall include fees for prosecuting

or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit or arbitration procedure on this Agreement shall be entitled to its reasonable attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment. This attorneys' fees provision is separate and several and shall survive the merger of the Agreement into any judgment.

16.16 **Confidentiality.**

16.16.1 Each Member agrees not to disclose or permit the disclosure of any of the terms of this Agreement or of any other confidential, non-public or proprietary information relating to the Property or the business of the Company or any Subsidiary (collectively, "**Confidential Information**"); provided that such disclosure may be made (a) to any Person who is a member, partner, officer, investor, director or employee, directly or indirectly, of such Member or counsel to, or accountants of, such Member solely for their use and on a need-to-know basis; provided that such Persons are notified of the Member's confidentiality obligations hereunder, (b) with the prior consent of the Manager, (c) subject to the next paragraph, pursuant to a subpoena or order issued by a court, arbitrator or governmental body, agency or official, (d) to any lender providing financing to the Company and its Subsidiaries, (e) in connection with the sale of all or any portion of the Property, assets of the Company or the Members' Interests, to any potential buyers, or (f) to any governmental or regulatory authority, body or agency pursuant to applicable laws, rules or regulations as reasonably determined by such Member.

16.16.2 In the event that a Member shall receive a request to disclose any Confidential Information under a subpoena or order or examination, such Member shall to the extent permitted by law and legally practicable (a) promptly notify all Members, (b) consult with all Members on the advisability of taking steps to resist or narrow such request, and (c) if disclosure is required or deemed advisable, cooperate with all Members in any attempt it may make to obtain an order or other assurance that confidential treatment will be accorded the Confidential Information that is disclosed.

16.16.3 Notwithstanding anything to the contrary contained in this Agreement, each Member (and its respective employees, representatives, or agents) may disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure of, and all tax strategies in connection with such Member's respective Interest and all materials of any kind (including opinions or other tax analyses) that are provided to the Members relating to such tax treatment, tax structure and tax strategies. For purposes of this Section 16.16.3, "tax structure" means any facts relevant to understanding the purported or claimed U.S. federal or state income tax treatment of each Member's investment in the Company and the ownership of an Interest (including the tax treatment and tax structure of any Company transactions), and does not include information relating to the identity of the Company, the Members or any of their respective Affiliates.

16.16.4 No Member shall, and shall not cause any Person who is a member, partner, officer, investor, director or employee of such Member to, directly or indirectly, defame or disparage any other Member, any Affiliate of any other Member, any other Member's business or operations, strategic plans, products, practices, policies, personnel or any other internal matter of any Member or any Affiliate of any other Member, or otherwise speak of any of the foregoing in a disparaging manner to any Person or in any medium.

16.17 **Brokers.** Each Member (a) represents and warrants to the other Members that neither it nor its Affiliates have dealt with any brokers of any type, investment bankers, consultants or other third parties who are entitled to receive a commission or other compensation from the Company, any Subsidiary or such Member in connection with the (i) acquisition of the Property (except as provided in the purchase agreement therefor or in connection with any Loan), or (ii) forming and capitalizing the Company (including obtaining or arranging the Capital Contributions) or the negotiation or completion of this Agreement, and (b) agrees to indemnify, defend and hold the Company, its Subsidiaries and the other Members harmless from and against any actual losses for or relating to any claims for commissions or any other fees due in connection with the

transactions described in this Agreement, and arising or resulting from the actions of such Member or the Affiliates of any of them. In the event of a breach of this Section 16.17, any amounts paid to cure such breach by the breaching party shall not constitute Capital Contributions, Member Loans or loans to the Company or any Member and shall not increase the Capital Account of such Member. The terms and of this Section 16.17 shall survive the termination of this Agreement.

16.18 **WAIVER OF RIGHT TO JURY TRIAL.** WITH RESPECT TO ANY DISPUTE ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, EACH MEMBER HEREBY IRREVOCABLY WAIVES ALL RIGHTS IT MAY HAVE TO DEMAND A JURY TRIAL. THIS WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY THE MEMBERS AND EACH MEMBER ACKNOWLEDGES THAT NONE OF THE OTHER MEMBERS NOR ANY PERSON ACTING ON BEHALF OF THE OTHER PARTIES HAS MADE ANY REPRESENTATION OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. EACH MEMBER FURTHER ACKNOWLEDGES THAT, IT HAS BEEN REPRESENTED (OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED) IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL. EACH MEMBER FURTHER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER PROVISION.

16.19 **No Personal Liability.** Except as expressly written in this Agreement, no officer, partner, member, employee, representative, agent, director, shareholder, manager, or other individual shall have any personal liability in connection with this Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Manager

1357 Sponsor, LLC, a Delaware limited liability company

By: 
Name: Craig Golden
Title: Authorized Signatory

Skydeck

Skydeck Real Estate I LLC, an Illinois limited liability company

By: Skydeck LLC, its Manager

By: 
Name: Jonathan Taiber
Title: Vice President

Pradera

Pradera Investments LLC, an Iowa limited liability company

By: 
Name: Jonathan Taiber
Title: Sole Member

Parker


Timothy Parker, an individual

JOINDER

1357 R2 joins this Agreement solely to make the representations in Section 15.3 of this Agreement.

1357 R2 Investor, LLC, a Delaware limited liability company

By:

Name: Matthew G. Garrison

Title: Manager

EXHIBIT A

DESCRIPTION OF PROPERTY

Lots 1 to 10 in Block 25 in Elston's Addition to Chicago in Section 5, Township 39 North, Range 14 East of the Third Principal Meridian (except that part of Lot 10 aforesaid lying South of a line described as follows:

beginning at a point on Easterly line of Elston Avenue a distance thereon of 530 feet 7 1/4 inches Southerly from its intersection with the Southerly line of Blackhawk Street and that Easterly right of way Southerly line of Blackhawk Street 273 feet 11 inches to Easterly line of Block 25) in Cook County, Illinois.

Address(es): 1357 N Elston Ave, Chicago, IL 60642

PIN(s): 17-05-121-006-0000

EXHIBIT B

CAPITAL CONTRIBUTIONS; PERCENTAGE INTERESTS

Members	To-date Capital Contributions	Current Percentage Interest
1357 Sponsor, LLC	\$3,657,864.98	35.000%
Skydeck Real Estate I LLC	\$6,691,280.16	64.025%
Pradera Investments LLC	\$67,931.78	0.650%
Timothy Parker	\$33,965.89	0.325%
Totals:	\$10,451,042.81	100%

EXHIBIT C

APPROVED 2020 BUSINESS PLAN AND APPROVED 2020 BUDGET

Business Plan

2020 Business Plan

- Obtain approval of PD
- Finalize plans for renovating the property. Obtain all associated building permits.
- Obtain construction financing from CIBC or another lender
- Begin renovating the property per the 2020 Approved Budget
- Actively seek to lease all remaining vacant space

Projected 2021 and 2022 Business Plans

- Continue renovating the property and finish all renovations in 2022
- Deliver spaces to tenants per the construction schedule and each lease's applicable deadlines
- Actively seek to lease any remaining vacant space
- If the property is stabilized in 2022, then obtain permanent financing

Projected 2023 and 2024 Business Plans

- Lease any remaining vacant space

Budget

Attached.

Project Capitalization		
	\$	PSF
Basis	\$18,532,904	\$188
Hard Costs	\$19,437,230	\$197
Leasing Costs	\$6,342,539	\$64
Soft Costs	\$3,000,000	\$30
Financing Cost	\$2,650,000	\$27
Total Costs	\$49,954,694	\$506
LTC		
Debt	60.00%	\$29,972,816
Equity	40.00%	\$19,981,877
		\$203

Exit		
Sale Year		7
NOI	\$3,811,996	
Cap Rate	6.00%	
Market Value	\$63,333,274	
Less: Fees	1.0%	(\$635,333)
Net Proceeds before Debt	\$62,897,941	
Less: Debt Repayment	(\$28,215,911)	
Net Sale Proceeds	\$34,682,030	
<i>Price per Foot</i>		\$637.5

Year 9: Landlord owes \$400K Refurbishment Allowance to Morton Salt

Returns Summary			
Deal	LP	GP	BSP
IRR	11.18%	10.59%	12.21%
EQM	2.12x	2.04x	2.27x
Profit	\$22,043,970	\$13,290,195	\$8,753,775
Promote	N/A	N/A	\$1,597,516
Avg. Cash Yield	5.3%	4.3%	4.3%
Year 5 Cash Yield	8.2%	6.4%	6.4%

Financing			
Debt		\$29,972,816	
Interest Rate		5.50%	
Amort Period		30	
Debt Service Constant		6.81%	
Debt Service/Month		\$170,182	
Debt Service/Annua		\$2,042,188	
I/O Debt Service		\$1,648,505	
I/O Period		3	

Metrics Summary			
	Year 3	Year 4	Year 5
Return on Equity	1.74%	2.08%	8.16%
Return on Cost	3.99%	6.92%	7.35%
DSCR	1.21x	1.69x	1.80x

OpEx		
Stabilized PSF		\$10.00
Expense Growth		2.5%
Vacancy Factor		5.0%

Shed Profits							
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Scenario 1: Downside	\$0	\$0	\$500,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Scenario 2: Base	\$0	\$0	\$1,500,000	\$3,500,000	\$5,500,000	\$5,500,000	\$5,500,000
Scenario 3: Upside	\$0	\$0	\$2,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
Total Shed Profit	Scenario 2	\$0	\$1,500,000	\$3,500,000	\$5,500,000	\$5,500,000	\$5,500,000
% Shed Rent	32.5%	\$0	\$0	\$487,500	\$1,137,500	\$1,137,500	\$1,137,500

Rent Roll Assumptions										
Sq Ft	Pro Rata	NNN	Gross	Term (Years)	Abatement	Escalations	T1 / Sq Ft	T1 / Total	LC	
Shed (Ground Floor)	31,263	31.7%	\$10.00	\$20,000	10	18	2.5%	\$75.0	\$2,344,725	\$0
Food & Beverage	6,685	6.8%	\$30.00	\$40,000	5	3	2.5%	\$50.0	\$334,250	\$41,652
Packaging Building	4,485	4.5%	\$25.00	\$35,000	5	3	2.5%	\$50.0	\$224,250	\$25,287
Packaging Building #1	2,407	2.4%	\$25.00	\$35,000	5	3	2.5%	\$50.0	\$120,350	\$12,498
Packaging Building #2	2,685	2.7%	\$25.00	\$35,000	5	3	2.5%	\$50.0	\$134,250	\$13,941
Packaging Building #3	3,596	3.6%	\$25.00	\$35,000	5	3	2.5%	\$50.0	\$179,800	\$18,671
Packaging Building #4	3,240	3.3%	\$25.00	\$35,000	5	3	2.5%	\$50.0	\$162,000	\$16,823
Packaging Building #5	2,700	2.7%	\$25.00	\$35,000	5	3	2.5%	\$50.0	\$135,000	\$14,019
Packaging Building #6	2,424	2.5%	\$25.00	\$35,000	15	8	3.0%	\$50.0	\$98,400	\$7,500
Morton	19,968	20.2%	\$25.00	\$35,000	10	3	2.5%	\$50.0	\$960,150	\$62,586
Packaging Building	19,203	19.5%	\$25.00	\$35,000	10	3	2.5%	\$50.0	\$960,150	\$62,586
	98,656	100.0%	\$20.59	\$30.59				\$5,714,375	\$628,184	
Sign Income			\$500,000		10	0	3.0%			

Leasing Commissions	
8.0%	3.0%
\$25,010	\$34,257
\$16,044	\$25,608
\$8,970	\$14,317
\$4,814	\$7,684
\$5,370	\$8,571
\$7,192	\$11,479
\$6,480	\$10,343
\$5,400	\$8,619
\$4,848	\$7,738
\$0	\$0
\$38,406	\$61,301
\$122,534	\$189,917

Sensitivity Scenarios			
Shed Profit	32.5%	IRR	EQM
\$0	(0.9%)	0.94x	
\$500,000	1.4%	1.10x	
\$1,000,000	3.5%	1.27x	
\$1,500,000	5.5%	1.44x	
\$2,000,000	7.0%	1.61x	
\$2,500,000	8.7%	1.80x	
\$3,000,000	10.5%	2.03x	
\$3,500,000	12.2%	2.27x	
\$4,000,000	13.7%	2.50x	
\$4,500,000	15.2%	2.75x	
\$5,000,000	16.7%	3.02x	

Rent Roll										
	NNN	Gross	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Lease Term
Shed (Ground Floor)	\$12,630	\$25,260	\$0	\$156,315	\$320,446	\$328,457	\$336,668			
Food & Beverage	202,550	\$267,400	\$150,413	\$205,564	\$210,703	\$215,970	\$221,370			
Packaging Building	112,125	\$156,975	\$84,094	\$114,928	\$117,801	\$120,746	\$123,765			
Packaging Building #1	60,175	\$84,245	\$45,131	\$61,679	\$63,221	\$64,802	\$66,422			
Packaging Building #2	67,125	\$93,975	\$50,344	\$68,803	\$70,523	\$72,286	\$74,093			
Packaging Building #3	89,900	\$125,860	\$67,425	\$92,149	\$94,451	\$96,812	\$99,233			
Packaging Building #4	81,000	\$113,400	\$60,750	\$83,025	\$85,101	\$87,228	\$89,409			
Packaging Building #5	67,500	\$94,500	\$50,625	\$69,188	\$70,917	\$72,690	\$74,507			
Packaging Building #6	60,600	\$84,840	\$45,450	\$62,115	\$63,668	\$65,260	\$66,891			
Morton	499,200	\$698,880	\$166,400	\$514,176	\$520,601	\$545,489	\$561,854			
Packaging Building	489,075	\$672,105	\$50,056	\$92,077	\$94,479	\$151,988	\$222,913			
	\$2,030,880	\$3,017,440		\$1,080,688	\$1,920,017	\$2,186,730	\$2,244,125			
Sign Income										

Actuals										
Close	2018	2019	2020	2021	2022	2023	2024	2025	2026	Year 7
Base Rent	\$0	\$0	\$0	\$0	\$0	\$1,080,688	\$1,920,017	\$2,186,730	\$2,244,125	
Expense Reimbursement	\$0	\$0	\$0	\$0	\$0	\$986,560	\$1,011,224	\$1,036,505	\$1,062,417	\$1,088,978
Vacancy	\$0	\$0	\$0	\$0	\$0	\$103,362	(\$146,602)	(\$158,360)	(\$161,457)	(\$166,655)
Rental Income	\$0	\$0	\$0	\$0	\$0	\$1,063,885	\$2,784,679	\$3,008,950	\$3,086,690	\$3,166,448
Salt Shed % Rent	\$0	\$0	\$0	\$0	\$0	\$487,500	\$1,137,500	\$1,137,500	\$1,137,500	
Sign Income	\$0	\$50,647	\$462,168	\$500,000	\$515,000	\$2,981,835	\$4,468,543	\$4,709,205	\$4,803,827	\$4,900,974
Gross Income	\$0	\$50,647	\$462,168	\$500,000	\$515,000	\$2,981,835	\$4,468,543	\$4,709,205	\$4,803,827	\$4,900,974
Operating Expenses	\$0	\$644,680	\$300,834	\$263,024	\$269,600	\$986,560	\$1,011,224	\$1,036,505	\$1,062,417	\$1,088,978
NOI	\$0	(\$594,033)	\$161,334	\$236,976	\$245,400	\$1,095,275	\$3,457,319	\$3,672,700	\$3,741,409	\$3,811,996
Debt Service	\$489,465	\$503,750	Reserved	Reserved	Reserved	\$1,648,505	\$2,042,188	\$2,042,188	\$2,042,188	
Net Cash Flow	\$0	(\$1,083,498)	(\$342,416)	\$236,976	\$245,400	\$346,770	\$1,415,130	\$1,630,512	\$1,699,221	\$1,769,808
Return on Equity						1.2%	1.2%	1.7%	7.1%	8.2%
Return on Cost										

BUDGET		
USES	\$\$	PSF
Current Basis		
Purchase Price	\$11,550,000	\$117
Seawall Escrow	\$1,950,000	\$20
Environmental Escrow	\$1,500,000	\$15
 Closing Costs	\$573,471	\$6
Development Costs	\$1,200,318	\$12
Loan Charges	\$106,289	\$1
2017 - 2019 Carry Costs	\$1,644,826	\$17
Total Current Basis	\$18,524,904	\$188
Hard Costs (see schedule)		
Base Building - Packaging	\$8,000,000	\$81
Base Building - Shed	\$5,000,000	\$51
Shed Bathroom / HVAC	\$2,032,095	\$21
Contingency	5.0%	\$751,605
GC Fee	10.0%	\$1,503,210
Insurance	1.0%	\$150,321
Offsite Improvements	\$2,000,000	\$20
Total Hard Costs	\$19,437,230	\$197
Leasing Costs		
Leasing Commissions	\$628,184	\$6
Shed TI	\$2,344,725	\$24
Packaging TI	\$3,369,650	\$34
Total Leasing Costs	\$6,342,559	\$64
Soft Costs		
Architectural Under Contract	\$300,000	\$3
Architectural Plus Consultants Extra	\$200,000	\$2
Impact Fee	\$2,100,000	\$21
Permitting	\$100,000	\$1
Marketing	\$100,000	\$1
Contingency	\$200,000	\$2
Total Soft Costs	\$3,000,000	\$30
Financing Costs		
Interest Reserve	\$2,100,000	\$21
Real Estate Tax Reserve	\$0	\$0
Insurance Reserve	\$0	\$0
Loan Fees	\$250,000	\$3
JV Legal	\$200,000	\$2
Entitlement Legal	\$100,000	\$1
Total Financing Costs	\$2,650,000	\$27
Total Uses	\$49,954,694	\$506

SOURCES	\$\$	PSF
Debt	\$29,972,816	\$304
Equity	\$16,531,877	\$168
Seawall Escrow	\$1,950,000	\$20
Environmental Escrow	\$1,500,000	\$15
Total Sources	\$49,954,694	\$506

Existing Cash \$1,055,468 \$11

Hard Costs Analysis		
	\$	PSF
Packaging		
Sq Ft		67,393
Base Building	\$8,000,000	\$119
TI	\$3,369,650	\$50
Total	\$11,369,650	\$169
Shed		
Sq Ft		31,263
Base Building	\$5,000,000	\$160
Bathrooms/HVAC	\$2,032,095	\$65
TI	\$2,344,725	\$75
Total	\$9,376,820	\$300
Escrow Analysis		
	\$	PSF
Seawall Escrow		(\$1,950,000)
Spent		\$494,779
Remaining		(\$2,444,779)
Environmental Escrow		(\$1,500,000)
Spent		\$1,152,000
Remaining		(\$2,652,000)
Interest Reserve Analysis		
I/O Annual Debt Service		\$1,648,505
Avg. Balance		70.0%
Years		2
Reserve to Hardcode		\$2,307,907

Morton Salt			
Assumed Net Annual Rent	-		
Assumed Gross Rentable	98,656	Garage	2,407.00
Tax per foot	4.50	Office	98,369.00
Opex per foot	6.16		
	10.66		

	Annual	Monthly	Per Rentable	
Utilities				
Electricity with HVAC (Chiller Plant)	49,185	4,099	0.50	Assumes no garage cooling and tenant direct HVAC and utilities
Gas Heat	19,731	1,644	0.20	Assumes garage heat and tenant direct HVAC
Water	14,798	1,233	0.15	
Total	83,714	6,976	0.85	
Direct Expenses				
Janitorial	98,369	8,197	1.00	\$1 office space only
Cleaning Supplies	14,798	1,233	0.15	
General Supplies	9,866	822	0.10	
Software (Security & Building)	4,933	411	0.05	
Phones and Communication	5,919	493	0.06	
HVAC Maint	9,866	822	0.10	
Electrical Repairs and maintenance	5,277	440	0.05	
Plumbing Maintenance	2,960	247	0.03	
Elevator Contract	5,919	493	0.06	Assume 1 elevators
General Building Repairs and Mainten	9,866	822	0.10	
Roof Maintenance	4,933	411	0.05	
Parking Garage cleaning and mainten	842	70	0.35	Garage area only
Interior General	9,866	822	0.10	
Fire Safety	11,839	987	0.12	
Permits and other	2,960	247	0.03	
Total	198,211	16,518	2.01	
Payroll and Staffing				
Onsite Admin	-	-	-	
Property Manager	32,556	2,713	0.33	\$45,000 allocation
Head Engineer	60,844	5,070	0.62	
Maintenance	16,452	1,371	0.17	20 hours of part time additional maintenance
Taxes & Benefits	-	-	-	
Total	109,853	9,154	1.11	
Services				
Management Fee	147,554	12,296	1.50	
Landscape	4,933	411	0.05	Minimal outdoor/roof
Trash / Recycling	13,812	1,151	0.14	Provide for all tenants
Doorman/Security	-	-	-	
Window Wash	7,892	658	0.08	
Snow Removal	2,960	247	0.03	
Misc Other	3,946	329	0.04	
Shuttle	-	-	-	
Total	181,097	15,091	1.84	
Taxes and Insurance				
Insurance	34,530	2,877	0.35	
Tax	443,952	36,996	4.50	
Total	478,482	39,873	4.85	
Total	1,051,356	87,613	10.66	4.66 opex less Mgmt Fee and Tax
Optional				
Shuttle	-	-	-	
Doorman/Security	-	-	-	
Food	-	-	-	
Entertainment/Events	-	-	-	
Additional Security	-	-	-	
Total	-	-	-	
Total w Optional	1,051,356	87,613	10.66	
Controlable	338,647	28,221	3.43	
Non-Controlable	565,155	47,096	5.73	Utilities, Snow Removal, Insurance, Tax
Management Fee	147,554	12,296	1.50	
Total	1,051,356	87,613	10.66	
Optional	-	-	-	Only includes Shuttle
Total w Optional	1,051,356	87,613	10.66	

Morton Salt - Base Building CONSTRUCTION BUDGET

Project Address: 1357 S Elston	USF	97,404			
Base Building Budget	RSF		Architect:		

Div.	Item Description	Quantity	Quantity Type	Unit cost	Item Budget	Division Subtotal	COST PSF
01 General Requirements							
Misc reimbursables cabs/travel/gas etc...	24	mo	\$220		\$5,280		
Building and Maintenance materials	1	ls	\$65,000		\$65,000		
Perimeter fencing/rental	1	ls	\$6,250		\$6,250		
Washroom facilities	4	24 mo	\$2,448		\$9,792		
Field office supplies support items	1	ls	\$9,200		\$9,200		
Dumpsters	48	ea	\$550		\$26,400		
TeleCom service	24	mo	\$100		\$2,400		
Utilities (Electrical for temp power/select temp heat)	24	mo	\$500		\$12,000		
Utilities (water/sewer & gas)	24	mo	\$500		\$12,000		
Security	4	mo	\$18,000		\$72,000		
Supt/PM: Bidding, Coordination, Supervision	800	hrs	\$80		\$64,000		
General Site Field Labor	1200	hrs	\$72		\$86,400		
Site cleaning	70,468	sqft	\$1		\$77,515		
General Requirements Subtotal						\$448,237	\$4.60
02 Demolition and Division 2							
Shoring of west shed	1	ls	\$130,780		\$130,780		
Shoring South end of East shed	1	ls	\$25,000		\$25,000		
Blasting of west shed	1	ls	\$136,425		\$136,425		
Blasting of packaging building	1	ls	\$138,209		\$138,209		
Demolition of east Shed	1	ls	\$250,000		\$250,000		
Demolition of west shed + conveyor	1	ls	\$250,000		\$250,000		
Abatement of east and west shed roof/wall panels	1	ls	\$500,000		\$500,000		
Packaging Building interior demoliton.	1	ls	\$236,670		\$236,670		
Demolition and Division 2 Subtotal						\$1,667,084	\$17.12
03 Concrete							
Concrete Column Stabilization and West Shed wall encapsulation	26	ea	\$11,200		\$291,200		
New Elevator foundation lobby	1	ls	\$16,500		\$16,500		
4" slab on Level 3	1	ls	\$31,250		\$31,250		
Concrete infill at new stairs and fire pump room	1	ls	\$13,400		\$13,400		
Curbs, gutters and sidewalks	1	ls	\$111,000		\$111,000		
Concrete patching at exterior	1	ls	\$88,000		\$88,000		
Concrete Planters	7	ea	\$3,250		\$22,750		
Cast in place concrete for exterior spaces	1	ea	\$325,500		\$325,500		
Concrete Subtotal						\$899,600	\$9.24
04 Masonry							
Install flashing, grind and tuck point parapet caps	1	ea	\$61,695		\$61,695		
Power wash and modac L3 CMU	1	ea	\$13,761		\$13,761		
Replace sills, lintels, angles, beams with new flashings	225	l/ft	\$185		\$41,625		
New openings in Packaging Building	1	ls	\$106,850		\$106,850		
Grind, tuck point and replace brick of packaging Building	1	ea	\$269,780		\$269,780		
Parapet and wall rebuild	1	ea	\$92,000		\$92,000		
West Shed masonry infills	1	ea	\$75,000		\$75,000		
Scaffold and swingstage costs	1	ea	\$63,500		\$63,500		
Masonry Subtotal						\$724,211	\$7.44
05 Metals							
Structural Steel Stabilization of West Shed and purlins for roof	1	ls	\$1,125,000		\$1,125,000		
Structural Steel Stabilization Contingency	1	ls	\$337,500		\$337,500		
Metal Stairs for Packaging Building	1	ls	\$85,000		\$85,000		
Misc Metals for Packaging Buildings	1	ls	\$120,000		\$120,000		
Structural Steel for Packaging Building	1	ls	\$75,000		\$75,000		
Metals Subtotal						\$1,742,500	\$17.89
06 Wood, Plastics, & Composites							
ETR				\$0	\$0		
Wood, Plastics, & Composites Subtotal						\$0	\$0.00
07 Thermal and Moisture Protection							
Kingspan roof and wall panel install	40,000	sf	\$40		\$1,600,000		
Remaining base building roof work - Patching	1	sf	\$220,000		\$220,000		
Morton Salt Sign Painting	1	sf	\$100,000		\$100,000		
Thermal & Moisture Protection Subtotal						\$1,920,000	\$19.71
08 Openings (Doors and Windows)							
Packing Building windows	1	ls	\$160,000		\$160,000		
Window and door removal	1	ls	\$60,000		\$60,000		
Packaging Building and Garage Doors (Includes hardware)	1	ls	\$172,435		\$172,435		
Skylight Repairs in Garage	1	ls	\$25,000		\$25,000		
Openings (Doors and Windows) Subtotal						\$417,435	\$4.29
09 Finishes							
Rough Carpentry	1		\$455,000		\$455,000		
Finish Carpentry	1		\$130,000		\$130,000		
Gypsum board	1		\$224,000		\$224,000		
Paint	1		\$52,000		\$52,000		
Flooring	1		\$61,000		\$61,000		
Signage	1		\$8,200		\$8,200		
Finishes Subtotal						\$930,200	\$9.55
10 Specialties							
Misc Division 10	1		\$74,228		\$74,228		
Specialties Subtotal						\$74,228	\$0.76
11 Equipment				\$0	\$0		
Equipment Subtotal						\$0	\$0.00
12 Furnishings						\$0	
Division 12 Subtotal						\$0	\$0.00
13 Special Construction							
Landscaping - plantings, drainage and Omni soils	1		\$408,000		\$408,000		
Site drainage and subgrade modifications	1		\$150,000		\$150,000		
Exterior fencing and gates	1		\$192,000		\$192,000		

	Special Construction Subtotal				\$750,000	\$7.70
14	Conveying Equipment					
	Two elevators, 1 new, 1 mod	2		\$200,000	\$400,000	
	Conveying Equipment Subtotal				\$400,000	\$4.11
21	Fire Suppression					
	FP system - Packaging Building and Garage only (Reuse existing piping)	1		\$145,148	\$145,148	
	NO CRAWL SPACE INCLUDED					
	Intumescent Fireproofing for beams and columns	1		\$242,500	\$242,500	
	Fire Suppression Subtotal				\$387,648	\$3.98
22	Plumbing					
	Packaging Building and Garage	1		\$605,200	\$605,200	
	Plumbing Subtotal				\$605,200	\$6.21
23	Heating, Ventilating, & Air Conditioning (HVAC)					
	Packaging Building and Garage	1		\$910,000	\$910,000	
	HVAC Subtotal				\$910,000	\$9.34
25	Integrated Automation					
					\$0	
	Integrated Automation Subtotal				\$0	\$0.00
26	Electrical/Lighting					
	Electrical and lighting for Packaging Building	1		\$1,025,000	\$1,025,000	
	Electrical Subtotal				\$1,025,000	\$10.52
27	Communications					
		1		\$50,000	\$50,000	
	Communications Subtotal				\$50,000	\$0.51
28	Electronic Safety and Security					
		1		\$96,500	\$96,500	
	Electronic Safety and Security Subtotal				\$96,500	\$0.99
27	Earth Moving					
	Earth moving and haul off	1		\$195,000	\$195,000	
	Earth Moving Subtotal				\$195,000	\$2.00
27	Asphalt					
	Asphalt paving and patching	1		\$55,000	\$55,000	
	Asphalt Subtotal				\$55,000	\$0.56
29	Utilities - Electrical, gas, water, sewer - cuts and new tie-ins					
		1		\$204,000	\$204,000	
	Utilities - Electrical, gas, water, sewer - cuts and new tie-ins Subtotal				\$204,000	\$2.09

ALL DIVISIONS TOTAL					\$13,501,843	\$138.62
General Contractor Fee			10%		\$1,350,184	\$13.86
CONTINGENCY...Due to early stages of project			10%		\$1,485,203	\$15.25
ALL DIVISIONS TOTAL w/ CONTINGENCY					\$16,337,230	\$ 167.73
Additional LL work per lease requirement for West Shed					\$ 3,100,000	\$ 31.83
Off site improvements per CDOT PD negotiations					\$ 1,400,000	\$ 14.37
Revised Total BASE BUILDING construction budget					\$19,437,230	\$199.55

EXHIBIT D

FORM OF PROPERTY MANAGEMENT AGREEMENT

[Attached]

PROPERTY MANAGEMENT AGREEMENT

dated as of July 2, 2020

by and between

1357 Property Owner, LLC,
as owner,

and

1357 Service Provider, LLC,
as agent

This Property Management Agreement (this “**Agreement**”) is made and effective as of July 2, 2020 by and between **1357 Property Owner, LLC**, a Delaware limited liability company (“**Owner**”), and **1357 Service Provider, LLC**, an Illinois limited liability company (“**Agent**”).

RECITALS

- A. Owner owns certain real estate and the improvements located at 1357 N. Elston Ave., Chicago, IL 60642 (the “**Property**”).
- B. Owner desires to retain Agent’s services as the sole and exclusive agent for the operation, management, and supervision of the Property on behalf of Owner, and Agent desires to provide such services to Owner, pursuant to this Agreement.

NOW, THEREFORE, in consideration of the above-written recitals, the mutual terms, covenants and conditions of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Agent agree as follows:

AGREEMENTS

1. **APPOINTMENT OF AGENT.** Owner hereby appoints Agent as the sole and exclusive agent for the operation, management, and supervision of the Property on behalf of Owner, and Agent accepts such appointment, each upon the terms and conditions set forth in this Agreement.
2. **TERM OF AGREEMENT.** The initial term of this Agreement, unless sooner terminated pursuant to §3, shall be for **2** years beginning as of the date hereof; provided, however, that upon the expiration of the initial term of this Agreement, this Agreement (unless it has been terminated sooner pursuant to the provisions of §3) shall be automatically renewed for successive periods of **1** year each (each, an “**Extension Term**”). Prior to the commencement of any Extension Term, Owner shall execute and provide to Agent a written confirmation of the extension of the term of this Agreement for such Extension Term, and Agent shall countersign and return to Owner fully executed counterparts thereof promptly upon Agent’s receipt thereof; provided, however, that in no event shall Owner’s failure to execute and/or deliver such written confirmation in any way affect the effectiveness of such automatic extension.
3. **TERMINATION.**
 - A. **Termination with Cause.** This Agreement may be terminated, without liability or expense on account of such termination (other than liabilities and expenses accruing hereunder prior to termination or expressly surviving termination):
 - (i) by Owner immediately upon giving Agent written notice, if a majority or controlling interest (whether directly or indirectly) in Agent is sold to any individual, partnership, corporation, trust, unincorporated association, limited liability company or other entity or association (“**Person**”);
 - (ii) by Owner immediately upon giving Agent written notice, if any of the following shall have occurred:
 - (a) Agent (including any of its officers, agents or representatives) has engaged in any act of fraud in connection with Agent’s responsibilities hereunder (a “**Fraud**”); or
 - (b) Agent is negligent in connection with its responsibilities hereunder, such negligence is the proximate cause of any non-*de minimis* harm to the Property or Owner (“**Negligence**”), and such Negligence is not Cured within **7** days after Agent’s receipt of notice of such Negligence.

- (c) Agent ceases performing its material obligations under this Agreement and same is not cured within **10** days after Agent's receipt of such notice.

For purposes of this §3.A(ii), the term "**Cured**" shall mean that, as a result of actions taken by Agent, Owner is made whole so as not to have suffered any actual and quantifiable economic loss as a result of such occurrence; provided, however, that in no event shall Agent be liable for any special, exemplary or consequential damages as a result of such occurrence. Owner hereby expressly acknowledges and agrees that in the event Agent pays or reimburses Owner for any losses incurred by Owner as a result of a Fraud or Negligence in order to effectuate such a Cure, and Owner shall have any rights under any insurance policies covering such loss, Agent shall be subrogated to and succeed to the rights of Owner under such insurance policies. For purposes of this Agreement, a series of related acts by one or more persons shall constitute a single act for purposes of determining the occurrence of a Fraud or the commission of Negligence; or

- (iii) by Owner or Agent, as the case may be ("**Aggrieved Party**"), upon giving written notice to the other party ("**Defaulting Party**"), if the Defaulting Party becomes insolvent or files or is the subject of a petition (voluntarily or not) to reorganize, adjust or liquidate all or any portion of its debts under Chapter 7 or 11 of the Bankruptcy Code, unless such petition, if involuntary, is dismissed within **60** days after filing.

B. Termination without Cause. This Agreement may be terminated, without liability or expense on account of such termination (other than liabilities and expenses accruing hereunder prior to termination or expressly surviving termination):

- (i) after the initial **2**-year term, by Owner upon giving Agent no less than **30** days' prior written notice, for convenience, any other reason, or no reason whatsoever;
- (ii) after the initial **2**-year term, by Agent upon giving Owner no less than **60** days' prior written notice, for convenience, any other reason, or no reason whatsoever;
- (iii) by Owner, upon at least **5** business days' notice, if 1357 Sponsor, LLC, a Delaware limited liability company ("**Sponsor**"), is removed as the Manager of 1357 Elston JV, LLC, a Delaware limited liability company (the "**JV**"), after a Manager Event of Default under the JV Agreement (defined below). "**JV Agreement**" means the Amended and Restated Operating Agreement of the JV of even date herewith by and among Sponsor, Skydeck Real Estate I, LLC, Pradera Investments LLC, and Timothy Parker;
- (iv) by Owner if Sponsor resigns as the Manager of the JV under the JV Agreement; or
- (v) by Owner, upon at least **5** business days' notice, in the event that, as of the effective date of such termination, Owner, or any successor by merger or consolidation, does not have or will not have, as applicable, any direct or indirect ownership interest in the Property.

C. Automatic Termination. This Agreement shall terminate automatically upon (a) the sale or other disposition of all or substantially all of the Property by Owner, or (b) Sponsor ceasing to be a "member" under the JV Agreement.

D. Agent Cooperation upon Termination. Upon any termination of this Agreement, Agent shall cooperate with Owner in transferring all documents, books, records and other property relating to the Property in Agent's possession or control, as may be reasonably requested by Owner, to Owner or such party as Owner may designate in writing. Agent shall also cooperate in

providing for the orderly and professional change in management control of the Property.

4. COMPENSATION OF AGENT AND REIMBURSEMENT OF EXPENSES OF OPERATION.

- A. Management Fee. As compensation for its property management services under this Agreement, Agent shall be entitled to receive from Owner a management fee (the “**Management Fee**”) in an amount and on the terms set forth in Exhibit A, which is attached hereto and made a part hereof.
- B. Intentionally Omitted.
- C. Design and Construction Services. For design or construction projects that (i) Agent desires to perform or manage and (ii) Owner approves such performance or management, Owner shall pay Agent fees (each, a “**Design/Construction Management Fee**”) in the amount and on the terms set forth in Exhibit B and as referenced in §5.M., subject to such adjustment as may be approved in any applicable Budget (defined below).
- D. Reimbursements and Other Expenses. In addition to the Management Fee, Design/Construction Management Fees (collectively, the “**Fees**”) and other reimbursements as provided elsewhere in this Agreement, but subject to the provisions of §5 below, Owner agrees to reimburse Agent for or pay for any and all other actual costs or expenses (without mark-up or a profit and including any discounts or rebates given to Agent) for: (i) premiums for property, general liability or other insurance coverages required in accordance with the terms of this Agreement or otherwise required by Owner; (ii) mail and publication expenses and business forms related to and solely for the use of the Property; (iii) bank fees and service charges specifically and solely related to the Property; (iv) reasonable expenses actually incurred by Agent on behalf of Owner in connection with the services provided hereunder, including, but not limited to, legal fees and expenses, accounting and audit fees and expenses, architectural, environmental and engineering fees and those expenses incurred in connection with providing services required or permitted under §6.A. below; and (v) other ordinary and budgeted costs and expenses for the operation and management of the Property or for which property management companies are customarily reimbursed, or which are customarily considered an owner’s cost or expense, at comparable properties in the general geographic area in which the Property is located (all of the foregoing described costs and expenses shall be deemed “**Expenses of Operation**”); provided, however, that in all events Agent shall only be entitled to reimbursement of such Expenses of Operation if: (a) (i) the same have been included in the Budget (as defined in §5.D. below) or are reasonable and do not result in a Material Deviation (defined below) from the Budget (in accordance with §5.D.), and (ii) such Expenses of Operations are specifically and solely for the use and benefit of the Property or, if such Expenses of Operation relate to more than one property, are fairly and reasonably allocated to the Property; or (b) the same constitute Emergency Expenditures or arise under any new Lease Agreement (as such terms are defined in §5.D(ii) hereof), or (c) the same have otherwise been approved by Owner. Notwithstanding anything to the contrary herein, Agent shall not be entitled to charge and shall not be reimbursed for its general overhead and administrative expenses.
- E. Sums due upon Termination. Owner shall also pay or reimburse Agent for any sums of money due it under this Agreement for services or actions taken in accordance with this Agreement prior to termination. Notwithstanding any termination of this Agreement, the amounts payable to Agent under this Agreement shall only be due with respect to the period of time during which this Agreement is in effect; provided, however, that Agent shall also be reimbursed for any costs properly incurred by Agent prior to termination hereunder which are consistent with prior practices and will benefit the Property for periods after the date of such termination.

5. RESPONSIBILITIES OF AGENT.

- A. **General Standard.** Subject to the terms and conditions of this Agreement, Agent is hereby charged with the sole and exclusive responsibility to manage the Property. Subject to the terms of this Agreement, Agent shall provide the services and do all things reasonably required to be provided for the professional, efficient and competent operation, and management of the Property in a first-class manner; provided, however, that in all events Agent's performance of its obligations under this Agreement shall be subject to, and limited by, Owner making available to Agent sufficient funds to perform such obligations, including maintenance, repair and management of the Property. In no event shall Agent be obligated to use its own funds towards any such obligations.
- B. **Receipt of Funds; Bank Accounts.** To the extent (if any) that Owner or any lender of Owner does not directly collect rents, receipts, income and security deposits and any other sums of money whatsoever relating to the Property (collectively, "**Receipts**"), Agent shall (i) use commercially reasonable efforts to collect Receipts in accordance with accepted practices in the industry, and (ii) account to Owner for Receipts and remit same to Owner in accordance with the provisions of §5.C. below. To the extent (if any) that Owner or any lender of Owner does not do same, Agent (i) shall establish, in Owner's name, an account into which all Receipts shall be deposited, and upon which only Owner shall have signing authority (the "**Master Account**"), and (ii) may in its discretion establish, in Owner's name, a separate account from which withdrawals shall be made for the payment of Expenses of Operation, and upon which both Owner and Agent shall have signing authority (the "**Withdrawal Account**"). Both the Master Account and the Withdrawal Account (if established) shall be interest-bearing, established at a bank or other financial institution that is acceptable to Owner in its sole discretion, and such accounts shall be linked such that checks drawn on the Withdrawal Account may be funded from cash on deposit in the Master Account. Agent may, in its discretion but subject to Owner's prior written approval, cause the funds at any time on deposit in the Master Account and Withdrawal Account to be invested so long as all such funds are at all times fully liquid and accessible by Agent and Owner for purposes of making timely payment of Expenses of Operation and Fees and timely making of the Monthly Disbursement (defined below). Each of Owner and Agent shall deposit or cause to be deposited all Receipts received by such party in the Master Account immediately following collection. In the event Agent is at any time in possession of Receipts prior to their deposit into the Master Account, Agent shall hold such Receipts in trust for the benefit of Owner. All funds at any time on deposit in the Master Account and the Withdrawal Account shall be the sole property of Owner. If deemed beneficial or necessary by Owner, Owner may establish (or require Agent to establish) a Property-specific lock-box account in Owner's name, into which some or all such Receipts may be initially deposited, provided that all of such deposits are swept daily into the Master Account. Agent shall be entitled to draw upon the Withdrawal Account to pay Expenses of Operation to the extent provided in §5.E. hereafter, as well as the compensation properly due Agent under §4 above. At any time, Owner may establish (or require Agent to establish) **1** or more reserves for purposes and requirements as Owner deems appropriate (each, a "**Reserve Account**"). Owner shall have sole signing authority with respect to all such reserves and Reserve Accounts. Agent shall maintain such reserves and Reserve Accounts and apply same as directed by Owner.
- C. **Monthly, Quarterly and Annual Statements; Monthly Disbursements.**
- (i) **Monthly and Quarterly Statements and Reports.** Within **10** days after the end of each full calendar month, or as otherwise reasonably required or reasonably modified by Owner, Agent shall deliver to Owner an accounting (hereinafter called the "**Monthly Statement**") setting forth the calculation of the gross operating receipts, the calculation of the Receipts (with which Owner shall reasonably cooperate regarding any Receipts that Owner has received directly), the amount and age of any rent delinquencies for the preceding calendar month, a current rent roll, and such other information reasonably requested by Owner to be delivered on a monthly basis, all in

a format supplied by Owner. Within **10** days after the end of each calendar quarter, Agent shall deliver to Owner a report (the “**Quarterly Report**”) in a format supplied by Owner containing the aforementioned information and any other information reasonably requested by Owner to be delivered on a quarterly basis. At the request of Owner or Agent, the Monthly Statement shall also include a check register indicating the name of each payee of each disbursement for the prior month, the amount of each disbursement, the check number and a description of the disbursement, and such other information (with respect to the Monthly Statement and Quarterly Report) which Owner reasonably requests, provided that the provision of such other information does not cause Agent to incur any additional material cost or expense (all of which cost or expense shall be borne by the party requesting such other information). Agent shall modify the standard reporting package to accommodate the reasonable requests of Owner so long as Agent is not required to change to different computer software systems from those that are generally utilized by Agent in connection with its management activities relating to both the Property and other properties.

- (ii) **Annual Statements.** Within **10** days after the end of each fiscal year of the Property (as determined by Owner), Agent shall deliver to Owner an accounting setting forth the results of operations for such fiscal year. Agent shall also deliver to Owner such other statements and reports as are reasonably required by Owner or Agent from time to time.
- (iii) **Monthly Disbursements.** Within **15** days after the end of each full calendar month, or as otherwise reasonably required or reasonably modified by Owner, Agent shall draw upon the Withdrawal Account and remit to Owner (or in the event the Withdrawal Account has not been established, shall advise Owner of, and Owner shall thereupon withdraw from the Master Account) the amount (the “**Monthly Disbursement**”) by which (i) the Receipts collected by Agent and deposited in the Master Account during the immediately preceding calendar month exceeds (ii) the sum of (A) the Expenses of Operation and the Fees due in the current month and in previous months and not yet paid out of Receipts from previous months, and (B) such amount as is necessary to maintain any reserves provided in the applicable Budget. If the Expenses of Operation and the Fees exceed the Receipts for any such month, Agent shall immediately notify Owner. Nothing herein shall obligate Agent to advance its own funds on behalf of Owner.

D. Budget.

- (i) **Submission and Approval of Budget.** By October 1st of each calendar year commencing with the year 2020, Agent shall submit to Owner for its review and approval a proposed budget for the subsequent calendar year in the format of the budget attached hereto as Exhibit C. Each such budget shall contain (a) an estimate of revenues which will be received from the Property during such subsequent calendar year, (b) an estimate of expenditures for operating expenses, maintenance and debt service for the Property during such subsequent calendar year, (c) an estimate of capital expenditures for the Property during such subsequent calendar year, and a forecast of capital expenditures for the next succeeding **4** calendar years; and (d) a management plan and summary for such subsequent calendar year. Owner shall use its good faith efforts to give its approval or disapproval of such proposed budget not later than **45** days after its receipt thereof. Upon Owner’s approval, such proposed budget shall become the “**Budget**” (as such term is used in this Agreement) for such subsequent calendar year. If the proposed budget for a calendar year is not approved by Owner on or before the commencement thereof, then Agent shall be entitled to continue to make expenditures for items contained in the most recently approved Budget, not in excess, as to each line item on a monthly basis, of the approved line

item in question for the previous calendar year plus **5%** unless or until Owner shall submit to Agent a Budget for such calendar year which Budget shall be binding upon Agent for all purposes under this Agreement.

- (ii) **Implementation of Budget.** When approved by Owner, Agent shall implement the applicable Budget and shall be authorized, subject to the limitations set forth in this Agreement, without the need for further approval by Owner, to make the expenditures and incur the obligations provided for in the applicable Budget and such additional expenditures and obligations that do not cause a Material Deviation (defined below) from the Budget. As used in this Agreement, the term "**Material Deviation**" shall mean a positive deviation of **5%** or more of any line item in the Budget, in all cases exclusive of Emergency Expenditures and new Lease Agreements. Notwithstanding the foregoing or any of the provisions of this Agreement to the contrary, Agent shall not be required to obtain Owner's approval for the following: (x) any operating expenditures which are for emergency repairs to the Property and which in Agent's reasonable and good faith opinion are required to preserve or keep safe the Property, or to avoid the imminent suspension of any service (such as a utility) to the Property, to reinstate such service, or to avoid damage to property or injury or death to any person, provided that in Agent's reasonable and good faith opinion Owner would otherwise be liable for such damage, injury or death (in any of which cases Agent shall notify Owner of such event immediately) (collectively, "**Emergency Expenditures**"); and (y) additional costs to the extent Owner incurs or contracts for same in connection with entering into any lease, license, occupancy agreement, or possessory agreement, or any extension or modification of any such agreement (each, a "**Lease Agreement**").
- (iii) **Rewvisions to Budget.** If anytime during the lifespan of a Budget, Owner or Agent determines that the Budget is no longer appropriate or feasible because of changes in conditions, circumstances or otherwise (but in no event due to Agent's failure to perform any of its duties hereunder), Agent shall forthwith submit to Owner for its approval a revised budget for the remainder of such period, indicating, in narrative form, the reasons that the assumptions used as the basis for preparation of the original Budget for such period are no longer operative. Owner shall promptly review such revised budget, but until such time as Owner approves such revised budget, if at all, the most-recently approved Budget shall remain in effect.
- (iv) **Obligations Subject to Budget.** Notwithstanding anything else in this Agreement, all duties and obligations of Agent hereunder shall be subject to the limitations contained in the Budget from time to time in effect, and if as a result of such limitations Agent is not able to perform in compliance with this Agreement, Agent shall neither be in default of this Agreement or otherwise liable to Owner, but Agent shall nonetheless be obligated to so inform Owner in writing promptly upon making such determination.

E. **Payment of Expenses of Operation.** Costs and expenses incurred by Agent on behalf of Owner in accordance with the provisions of this Agreement, including all Expenses of Operation, to the extent same have been included in the Budget or do not result in a Material Deviation from the Budget or are otherwise permitted in accordance with §5.D. or are approved by Owner, shall be payable by Agent on behalf of Owner out of the Receipts received in accordance with §5.B. above.

F. **Books and Records.** Agent shall maintain at one of its corporate or regional offices adequate and separate books and records in connection with its management and operation of the Property consistent with prudent, accepted property management standards. Such books and records shall be maintained at Agent's expense and in accordance with generally accepted accounting principles consistently applied and consistent with industry standards. Agent shall assist Owner, at no out-of-pocket cost to Agent, in preparing and filing all forms, reports and

returns required by any federal, state, county or municipal authority relating to the operation of the Property.

G. Audits. Agent shall perform and cooperate with all audits of books and records by Owner and/or any of its accountants as follows:

- (i) Operational Audits by Agent. At the request of Owner (no more frequently than twice annually), Agent shall conduct an operational audit of its performance under this Agreement. Operational audits shall be in a form reasonably approved by Owner and reviewed and certified by an officer of Agent as true and correct to the best of Agent's knowledge.
- (ii) Audits by Owner.
 - (a) Owner shall have the right and privilege of examining or auditing, or both, Agent's books and records relating to the Property at any and all reasonable times upon reasonable notice to Agent; provided, however, that Owner shall also have the right to conduct a spot examination or audit of such books or records without the necessity of furnishing Agent with prior written notice, and Agent shall cooperate with Owner in connection therewith. Audits shall be performed during normal business hours, and Agent shall fully cooperate in any Audit. Audits shall be an expense of the party requiring the audit unless an audit reveals errors in the reporting of income or expenses of the Property of more than **3%**, in which case Agent shall bear all costs of such audit.
 - (b) Agent shall cooperate with any accountant(s) of Owner in connection with any audit and any preparation of independently certified financial statements and income tax statements for the Property, if requested by Owner. Such cooperation shall include, without limitation, the timely provision to Owner and its accountant with all reasonably required information relating to the Property and in control of Agent to enable the accountant to conduct audits of the Property and to prepare financial statements. Such books and records may also be examined at all reasonable times by any other supervisory or regulatory authority having jurisdiction over the Property.

H. Insurance.

- (i) Agent shall maintain (or cause its delegates to maintain, as applicable) at all times the insurance coverages outlined in Exhibit D attached hereto and such other insurance that is required by the loan documents related to the mortgage loan secured by the Property (collectively, the "**Loan Documents**").
- (ii) Owner shall procure and maintain, or cause the occupant of the Property to procure and maintain, in effect a policy of comprehensive public liability insurance against liability for injury or death to persons and damage to property at the Property. Such policy shall afford Commercial General Liability limits of insurance of **\$1,000,000 for Each Occurrence, \$2,000,000 for the General Aggregate, and \$2,000,000 for Products-Completed Operations Aggregate.** Agent shall be named as an Additional Insured, on a Primary Basis & Non-Contributory Basis, including Products/Completed Operation on such policy.

I. Leasing. Agent shall not have any authority to enter into any Lease Agreements.

J. Compliance with Laws. Subject to financial constraints imposed on Agent by the Budget, Agent shall comply with and use commercially reasonable and good faith efforts to cause the Property to comply with all laws that apply to the Property, the violation of which would have

a material adverse effect on Owner or the Property, and use commercially reasonable and good faith efforts to maintain all necessary certificates of occupancy, licenses and/or operating permits for the Property; provided, however, that in the event and at such time as Agent becomes aware that the availability of funds in the Budget is insufficient to enable Agent to satisfy this obligation, Agent shall promptly so notify Owner in writing.

K. Environmental Duties. Agent shall perform the following duties with respect to environmental laws:

- (i) Inspect the Property, at commercially reasonable intervals, to identify and evaluate conditions which Agent believes may present environmental risks and give notice to Owner of any such violations of which it becomes aware. Owner agrees and understands that Agent in discharging these duties is not required to have special environmental training and qualifications.
- (ii) Use commercially reasonable and good faith efforts to monitor compliance by tenants and other occupants of the Property with provisions or covenants of Lease Agreements regarding standards of conduct concerning hazardous materials or compliance with environmental laws. Owner agrees and understands that Agent in discharging these duties is not required to have special environmental training and qualifications; and
- (iii) With respect to any matter presenting an environmental risk of which Agent has actual knowledge, make recommendations to Owner regarding the engagement of professionals to evaluate the need for and the performance of, and, upon Owner's approval and at Owner's sole cost and expense, use commercially reasonable and good faith efforts to engage such professionals to timely perform preventive or remedial actions to minimize such risks; provided however, if any such risk poses in Agent's reasonable judgment an emergency which requires immediate or prompt action, Agent shall, at Owner's expense, use commercially reasonable and good faith efforts to cause to be taken such remedial actions as Agent deems necessary to minimize and control the damage threatened by such emergency. Owner's approval shall not be required for such actions but Agent shall promptly after such remedial actions provide notice to Owner describing the emergency and the actions taken in response thereto.
- (iv) Agent may not provide, without Owner's approval, any tenants or other occupants of the Property (or any other party) with any reports within the possession of Agent relating to the environmental status of the Property unless Agent is required to do so pursuant to any law, rule, regulation or court order by which Agent reasonably believes it is bound.
- (v) Notwithstanding the foregoing, Agent shall not be responsible to Owner or any Affiliate (defined below) of Owner, or any co-tenant, officer, director, employee, trustee, member, agent, representative, successors or assign of Owner or any such Affiliate, or to any third party claiming through Owner for loss or damage resulting from any environmental problem or hazard at the Property (or originating from the Property), whether caused by delay in remediation or otherwise, unless the same was caused by Agent's willful misconduct, bad faith or known illegal acts.

For purposes of this Agreement, an "**Affiliate**" of any Person shall mean (i) any other Person directly or indirectly controlling, controlled by or under common control with such Person, or (ii) an officer or director of, or partner, shareholder or member in, such Person, or (iii) any other Person directly or indirectly owning or controlling **10%** or more of the outstanding securities or other ownership interest of such Person.

L. Design/Construction Projects. If, pursuant to an approved Budget, the Property requires repair, replacement, tenant improvements or renovation work, Agent may, in Owner's discretion, perform the design and/or construction management services described below and otherwise in accordance with Exhibit B attached hereto and made a part hereof; provided, however, that in the event such Budget provides for the payment of Design/Construction Management Fees in connection with any such work in an amount inconsistent with those provided in said Exhibit B, the fees payable pursuant to such Budget shall control and be effective with respect to such work. Agent acknowledges and agrees that such design and/or construction management services are expected to include, but may not be limited to, the following:

- (i) Architectural services such as creating plans and specifications, space plans, and floor plans, and inspecting architect service;
- (ii) Negotiating on behalf of Owner construction, architectural and other service agreements;
- (iii) Evaluating and comparing bids for the work contemplated by such agreements;
- (iv) Coordinating the work of the contractors, architects and engineers during the construction period;
- (v) Reviewing and approving draw requests;
- (vi) Coordinating punch list and punch out procedures.

Notwithstanding the foregoing or anything set forth herein to the contrary, in no event shall Agent's performance of design and/or construction management services constitute, imply, or be deemed to constitute or imply any representation or warranty as to the quality of any work performed by any contractor, architect, engineer or other third party unrelated to Agent engaged by Owner, or by Agent for or on behalf of Owner, in connection with such construction activities.

6. MANAGEMENT AUTHORITY.

A. Contracts and Actions. Subject to the terms of this Agreement (including, without limitation, §§4.D. and 5.D.) and the limitations contained in the then current Budget, Agent shall operate, maintain, repair and otherwise manage the Property in accordance with sound management practices and use reasonable efforts to provide for the furnishing of water, electricity, gas, telephone, vermin extermination, trash removal and other services necessary or advisable for the operation of the Property in a first-class manner. Agent shall also use commercially reasonable and good faith efforts to (i) manage, address, and resolve (all with notice to Owner and subject to Owner's desires, preferences, and requirements) issues, problems, and requests by tenants and other occupants of the Property, (ii) monitor the compliance by such tenants and occupants with the terms of their Lease Agreements, and (iii) monitor and assist Owner in complying (to the extent applicable) with the Loan Documents and any leases affecting the Property. Agent shall have the authority, on behalf of Owner, to execute contracts with third parties for the services or goods provided above, subject however (except in the case of an emergency), to the applicable provisions of §§4.E. and 5.D. Unless otherwise approved by Owner, all contracts obtained under this §6.A.—other than (i) contracts that Agent obtains and are applicable on a national or regional basis for providing standard, periodic goods and/or services to properties that are similar to the Property (e.g., a national elevator maintenance contract), or (ii) contracts to provide goods, services, labor, or materials in connection with isolated, single-purpose activities (e.g., a contract with a contractor to build out a tenant's space or undertake a capital improvement)—shall either (A) be subject to 30-day cancellation by Owner without cause and without penalty, or (B) be subject to termination by Owner upon

the transfer of ownership or control of the Property and upon the termination of this Agreement. All such contracts shall be obtained through a neutral and open-book bidding procedure; provided, however, that if Agent can reasonably demonstrate that a service provider under a national or regional contract with Agent can provide comparable services at no greater cost, then Agent shall not be required to engage the services of the lowest or local bidder.

Only to the extent authorized by Owner, Agent shall have the right to demand, collect, and receive Receipts. In no event, however, shall Agent have any right to institute, settle, or compromise any legal proceedings relating to the Property, whether to collect Receipts, to dispossess any tenant or other occupant of the Property, to sue any third-party service provider for the Property, or for any other purpose. Agent shall promptly notify Owner of all legal proceedings with respect to the Property as well as any counterclaims or cross-claims filed in any such proceedings.

- B. Employment of Personnel. Agent shall employ or cause to be employed a sufficient number of capable, on-site personnel (or off-site personnel, at Owner's election) to enable Agent to properly, adequately, safely and economically manage, operate, and maintain the Property consistent with its obligations in this Agreement. Unless approved in advance by Owner, Agent shall use its own in-house specialists (and not any third-party consultants, including tenant work coordinators, technical and computer services, public relations or advertising personnel) to perform such services with respect to the Property in order to fulfill Agent's duties hereunder. In any event, (i) Owner shall be consulted in any hiring, termination and replacement of the following key personnel (collectively, the "**Key Personnel**")**:** Craig Golden; Marc Garrison; the person who is most directly responsible for providing the services in this Agreement, whether a Property Manager, General Manager, or their functional equivalents; and any on-site personnel (or, as applicable, any other on-site personnel) (e.g., a Building Engineer), and (ii) upon the written request of Owner, Agent shall cause to be replaced any Key Personnel if the actions or inactions of such Key Personnel reasonably warrant removal for cause. Except as hereinafter set forth, in no event shall Agent solicit the transfer of any Key Personnel to any other property owned or managed by Agent or any of its Affiliates; provided, however, that the foregoing shall not prohibit Agent from posting, in accordance with company policy, for any job openings within Agent or any of its Affiliates and transferring any such employee responding to any such posting.

Agent shall not discriminate against any of its personnel, any applicant for employment, any prospective tenant or vendor because of race, creed, color, sex, sexual orientation or national origin; and shall otherwise comply with all rules, regulations, laws and orders relating to workers compensation, social security, unemployment insurance, wages, hours, working conditions and other employment matters, and shall endeavor to cause all subcontractors of labor, contractors, and vendors to abide by the same standard. All such employees shall for all purposes hereof be employees of Agent and not Owner and all matters pertaining to the employment of such employees, including their employment, supervision, compensation, promotion and discharge shall be the sole and exclusive responsibility of Agent, and Owner shall have no liability with respect thereto; provided, however, that Agent (i) shall have the right to include the wages, salaries and other compensation of all such personnel, including social security taxes, unemployment compensation and similar items shall be as reflected in the Budget from time to time in effect, and (ii) shall be reimbursed to or paid by Agent or Agent's subcontractor from Receipts and shall be deemed to be an Expense of Operation.

7. MISCELLANY.

- A. Relationship. Agent's acts and omissions which are not in violation of the terms and provisions of this Agreement shall be deemed to be undertaken as the agent of Owner. Agent and Owner shall not be construed as joint venturers or partners of each other, and except as

provided herein, neither of them shall have the power to bind or obligate the other.

- B. Confidentiality. Agent (and any Affiliate of Agent) shall not disclose any confidential information pertaining to the Property obtained in its capacity hereunder as Agent, unless (a) Agent is authorized in writing by Owner to release such information, in which event Agent shall comply with Owner's reasonable instructions, (b) Agent is required to disclose such information in order to perform its obligations hereunder, or (c) Agent is required to disclose such information by law, court order or similar governmental mandate. Notwithstanding the foregoing, Agent may disclose such confidential information to its respective employees, officers, agents and representatives (each, a "**Representative**"), provided that (i) the Representative agrees to abide by the obligations in this §7.B., and (ii) in all events, Agent shall be liable to Owner for any breach of such obligations by the Representative. The obligations in this §7.B. shall survive the expiration or sooner termination of this Agreement for **2** years.
- C. [intentionally omitted]
- D. Benefits and Obligations. The covenants and agreements contained in this Agreement shall inure exclusively to the benefit of, and be binding upon, the parties hereto and their permitted successors and assigns, and no other parties. Notwithstanding the foregoing, without the prior written consent of Owner (which may be withheld in Owner's sole discretion), (i) Agent shall not assign this Agreement and (ii) except to an Agent Affiliate (defined below), Agent shall not delegate or otherwise transfer any of its rights or obligations under this Agreement. For purposes of this Agreement, "**Agent Affiliate**" shall mean R2 Property Management, LLC, R2 Design Build, LLC, R2 Companies, LLC, Blue Star Properties, Inc., and any other entity that directly or indirectly controls, is controlled by, or is under common control with Agent, Matthew Garrison, Nathan Laurell, and/or Craig Golden (whether directly or indirectly).
- E. Notices. All notices, requests, consents, approvals, demands and other communications required or allowed under this Agreement (y) must be (i) in writing, (ii) delivered to the address/addresses written below (or to such other address/addresses as either party may from time to time specify in a written notice to the other in accordance with this §7.E.), and (iii) delivered by email, personal delivery, or an overnight courier and (z) shall be effective when delivered or delivery is refused (whether affirmatively or due to the recipient failing to maintain a current address for receiving notices with the sender).

Owner

1357 Property Owner, LLC
% R2 Companies, LLC
1200 N. North Branch St., #200
Chicago, IL 60642
Attention: Matthew G. Garrison, Max
Meyers, and Brendon Martin, Esq.
Email: mg@r2.me, mmeyers@r2.me,
and bmartin@r2.me

With copies to:

1357 Property Owner, LLC
% Blue Star Properties, Inc.
600 W. Van Buren, Suite 1000
Chicago, IL 60607
Attention: Craig Golden
Email: craig@bluestarproperties.net

Agent

1357 Service Provider, LLC
% R2 Companies, LLC
1200 N. North Branch St., #200
Chicago, IL 60607
Attention: Matt Garrison
Email: mg@r2.me

With a copy to:

1357 Service Provider, LLC
% Blue Star Properties, Inc.
600 W. Van Buren, Suite 1000
Chicago, IL 60607
Attention: Craig Golden
Email: craig@bluestarproperties.net

and

1357 Property Owner, LLC
% Polsky Holdings, Inc.
1 S. Wacker Dr., Suite 1810
Chicago, IL 60606
Attention: Michael Polsky
Email:
statements@polskyholdings.com &
jtaiber@polskyholdings.com

- F. **Severability.** If any provision of this Agreement or its application to any person or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances other than those as to which it is so determined invalid or unenforceable shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- G. **Applicable law.** This Agreement shall be construed and enforced in accordance with the laws of the state or commonwealth where the Property is located.
- H. **Entire Agreement.** This Agreement is the entire agreement between the parties with respect to the subject matter hereof and shall not be amended or modified except in a written document signed by Agent and Owner.
- I. **Attorneys' Fees.** If either party institutes a lawsuit or other legal proceeding against the other in an effort to enforce this Agreement, then the substantially prevailing party shall be entitled to recover from the other party the attorneys' fees and court costs reasonably incurred by it in bringing or defending against the proceeding.
- J. **Indemnity.** Agent shall indemnify, defend and hold Owner, its constituent co-tenants, its Affiliates, and each of their respective agents and employees harmless from and against any and all claims, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred relating to or arising in connection with Agent's breach of this Agreement (other than a breach of §5.L.) or Agent's own fraud, gross negligence, willful misconduct, recklessness, bad faith, or illegal acts; provided, however, that in no event shall such indemnity extend to claims covered under insurance policies obtained by Agent in accordance with this Agreement, or required to be insured by Owner in accordance with this Agreement, regardless of the adequacy of any such insurance to cover such claims in full.
- K. **Arbitration.** In the event of any dispute between Owner and Agent hereunder where the amount at issue does not exceed **\$100,000**, the dispute shall be submitted to and settled by arbitration as hereinafter provided, and any equitable claim made in connection therewith shall also be submitted to and settled by such arbitration. Disputes in amounts exceeding **\$100,000** and all other equitable claims shall not be subject to this §7.K. unless so agreed by Owner and Agent in writing, but shall be adjudicated in accordance with the provisions of §7.L. below. Arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect when the arbitration begins, as hereafter modified or supplemented, to the extent not inconsistent with this Agreement, but not under the auspices of the American Arbitration Association. The arbitration shall be conducted by a panel consisting of a total of **3** arbiters experienced in matters concerning the management of properties that are comparable to the Property in (or around, if and as necessary) the local market in which the Property is located, with **1** arbiter selected by each party and the **3rd** arbiter selected by the other **2** arbiters. The meetings with the arbiters shall be held in the city in which the Property is located or such other location as agreed to by the parties. The decision of the

arbiters shall be final and binding as to any matters submitted to them under this Agreement; provided, however, that, if necessary, such decision may be enforced by the substantially prevailing party in any court of record having jurisdiction over the subject matter or over any of the parties to the dispute. All costs and expenses (including reasonable attorneys' fees and the arbiter's fees and expenses) incurred by any of the parties in connection with any such arbitration proceeding shall be borne solely by the substantially losing party in the decision. If no decision is rendered, the party initiating the claim shall bear all costs and expenses (including reasonable attorneys' fees) incurred by any of the parties in connection with the arbitration proceedings.

- L. Jurisdiction and Service of Process. WITH RESPECT TO ANY MATTER NOT GOVERNED BY §7.K. ABOVE, AGENT AND OWNER HEREBY ACKNOWLEDGE AND AGREE THAT SUCH MATTER MAY BE ADJUDICATED IN A COURT OF LAW AND THAT ALL REMEDIES AT LAW OR IN EQUITY SHALL BE AVAILABLE TO SUCH PARTY, AND HEREBY CONSENT TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN (A) CHICAGO, ILLINOIS OR (B) THE STATE IN WHICH THE PROPERTY IS LOCATED AND IRREVOCABLY AGREE THAT, SUBJECT TO THE OTHER PROVISIONS OF THIS AGREEMENT, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT MAY BE LITIGATED IN SUCH COURTS. EACH OF AGENT AND OWNER ACCEPTS FOR SUCH PARTY AND IN CONNECTION WITH SUCH PARTY'S PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE NON-EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON-CONVENIENS, AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS AGREEMENT. IF ANY AGENT APPOINTED BY AGENT OR OWNER REFUSES TO ACCEPT SERVICE, SUCH PARTY HEREBY AGREES THAT SERVICE UPON SUCH PARTY BY MAIL SHALL CONSTITUTE SUFFICIENT NOTICE. NOTHING HEREIN SHALL AFFECT THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.
- M. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement. Signature pages delivered by email or facsimile transmission shall be as valid as originals for all purposes.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto hereby execute and enter into this Agreement as of the first date written above.

OWNER

1357 Property Owner, LLC, a Delaware limited liability company

By: 1357 Elston JV, LLC, its Manager

By: 1357 Sponsor, LLC, its Manager

By: _____
Name: _____
Title: Authorized Signatory

AGENT

1357 Service Provider, LLC, an Illinois limited liability company

By: 1357 Sponsor, LLC, its Manager

By: _____
Name: _____
Title: Authorized Signatory

EXHIBIT A

MANAGEMENT FEE

Each month, the greater of (a) **\$2,000.00**, and (b) **5%** of the Property's gross operating receipts.

EXHIBIT B

DESIGN/CONSTRUCTION MANAGEMENT FEES

A fair market fee (and not to exceed that charged by a third party) based on factors such as the type of service as well as the size and scope of the project. Owner agrees that a design/construction management fee equal to the sum of 5.0% of the job cost of such work performed for the first \$500,000 of the job cost, plus 4.0% of the job cost of such work performed for the job cost in excess of \$500,000 but equal to or less than \$750,000, plus 3.0% of the job cost of such work performed for the job cost in excess of \$750,000. As used herein, “**job costs**” shall mean the cost of labor and materials involved in the physical construction or improvement including subcontracts for the various trades involved, but shall not include any of those costs commonly referred to as “soft costs” including but not limited to design fees, engineering fees, architectural fees, consulting fees, and the cost of governmental permits. Owner will pay the Design/Construction Management Fee to Agent within 15 days after substantial completion of the construction or improvements as reasonably determined by Owner.

EXHIBIT C

SAMPLE BUDGET

[attached]

EXHIBIT D

INSURANCE

1. If Agent has any employees, then worker's compensation insurance and employer's liability insurance in the minimum amounts required by Illinois law
2. Commercial general liability insurance for claims of bodily injury, personal injury, advertising injury, property damage, and broad-form automobile coverage with a combined single limit of at least One Million Dollars (\$1,000,000)
3. Excess or umbrella liability insurance with a combined single limit of at least One Million Dollars (\$1,000,000)
4. Crime coverage with respect to the Property or handling funds, money, documents, and papers relating to the Property, with a minimum coverage of one (1) month's gross income from the Property and a maximum deductible of One Hundred Thousand Dollars (\$100,000)

Owner, its property manager, and its mortgage lender shall be named additional insureds on the coverages described in ##2 and 3 above.

EXHIBIT E

FORM OF LEASING AGREEMENT

[Attached]

LEASING AGREEMENT

This Leasing Agreement (this “**Agreement**”) is entered into as of July 2, 2020 (the “**Effective Date**”) by and between **1357 Property Owner, LLC**, a Delaware limited liability company (“**Owner**”), and **1357 Service Provider, LLC**, an Illinois limited liability company (“**Broker**”).

RECITALS

- A. Owner owns the property located at 1357 N. Elston Ave., Chicago, IL 60642 (the “**Property**”).
- B. Owner desires to retain Broker to procure tenants for the Property and perform related services, and Broker is willing to perform such services on the terms and conditions in this Agreement.

AGREEMENTS

1. **APPOINTMENT.** Upon the terms and conditions herein, Broker is hereby appointed as the exclusive agent of Owner to lease the Property, and Broker hereby accepts such appointment.
2. **BROKER’S SERVICES.**
 - 2.1. **Leasing.** Broker shall use commercially reasonable efforts to procure tenants to lease the Property that are of a caliber and creditworthiness equal to or greater than that of tenants of comparable buildings in the submarket of Chicago in which the Property is located. Broker has no authority, and shall not hold itself out as having the authority, to execute or otherwise bind Owner to any lease, letter of intent, or other agreement (including to pay fees or commissions), or to take any other action that could result in liability to Owner without Owner’s express written consent.
 - 2.2. **Inquiries and Negotiations.** Broker will assist Owner in developing, communicating, and presenting offers, counteroffers, and notices until each lease is signed and all contingencies are waived. Broker shall (i) consult with and make recommendations to Owner regarding leasing strategies and market trends, (ii) prepare listings and distribute them to reputable real estate brokers, and (iii) at Owner’s expense, place standard “for lease” signs on the Property. Broker will actively solicit and cooperate with third-party brokers as reasonably necessary. Broker agrees to accept delivery of, and present Owner with, offers and counteroffers to lease the Property. All lease negotiations will be conducted with the assistance of Broker; provided, however, that Owner may enter into negotiations directly with any prospective tenant so long as same does not affect any commission that would otherwise be due to Broker hereunder. Notwithstanding anything to the contrary in this Agreement, and subject only to §9.3 hereof, Owner may, in its sole and absolute discretion, for any reason or no reason, refuse to negotiate or enter into any proposed or partially executed lease, in which event no commission shall be due to Broker (or anyone claiming by, through or under Broker).
3. **TERM.**
 - 3.1. **Initial Term and Renewals.** The initial term of this Agreement (the “**Term**”) shall begin on the Effective Date and expire on the day before the second (2nd) anniversary of the Effective Date, unless sooner terminated in accordance with this Agreement. Thereafter, the Term shall automatically renew for consecutive one (1)-year periods unless either party notifies the other, at least thirty (30) days before the next renewal, that it elects to terminate this Agreement.
 - 3.2. **Termination.** Notwithstanding the foregoing, Owner may terminate this Agreement for Cause (defined below) at any time, which termination shall be effective immediately upon written notice to Broker. “**Cause**” shall mean any (a) fraud, misappropriation of funds, or intentional misconduct by Broker, (b) material breach of this Agreement by Broker that is not cured within ten (10) business days after Owner notifies Broker thereof, (c) filing of a petition for bankruptcy relief by Broker or an assignment of the benefit of creditors by Broker, or (d) loss

or suspension of any governmental license that is necessary to perform the services under this Agreement, which loss or suspension is not cured within ten (10) business days after same occurs. Additionally, with prior written notice to Broker, Owner may terminate this Agreement upon a sale or other disposition of all or substantially all of the Property.

4. COMPENSATION.

- 4.1. **Office Leases.** If Broker procures (whether directly or indirectly, including through Owner) an office tenant for the Property (whether a new lease, extension, renewal, or expansion), then Owner shall pay Broker a commission of one and 25/100 dollars (\$1.25) per rentable square foot per year during the initial term; provided, however, that (i) with respect to any extension or renewal, such payment shall be on only the extended or renewed term, and (ii) with respect to any expansion, such payment shall be on only the term of the expansion space. Notwithstanding the foregoing, if a third-party broker represents such tenant, then Owner shall pay Broker a commission equal to one and one-half (1½) times the amount calculated in the immediately foregoing clause, and such commission shall be allocated between Broker and such third-party broker according to market custom. All partial years shall be prorated.
- 4.2. **Retail Leases.** If Broker procures (whether directly or indirectly, including through Owner) a retail tenant for the Property (whether a new lease, extension, renewal, or expansion), then Owner shall pay Broker a commission of three percent (3%) of the base rent payable by the tenant during the initial term of the lease; provided, however, that (i) with respect to any extension or renewal, such payment shall be on only the extended or renewed term, and (ii) with respect to any expansion, such payment shall be on only the term of the expansion space. Notwithstanding the foregoing, if a third-party broker represents such tenant, then Owner shall pay Broker a commission equal to double the amount calculated in the immediately foregoing clause, and such commission shall be allocated between Broker and such third-party broker according to market custom. All partial years shall be prorated.
- 4.3. **Payment.** With respect to any commission to Broker that has accrued to Broker pursuant to §4.1 or §4.2, Owner shall pay such commission to Broker upon the later of (1) the full execution of the lease (or the memorialization of a renewal, extension or expansion thereof, as applicable), and (2) the waiver or satisfaction of all contingencies or conditions thereto.
- 4.4. **Tail.** Unless this Agreement is terminated for Cause, Owner shall also pay Broker a commission if, within one hundred eighty (180) days after the end of the Term, Owner enters into a lease with a prospective tenant that Broker, during the Term, had submitted or received a written lease proposal from. As a condition precedent to Broker's rights and Owner's obligations under this §4.4, Broker, within thirty (30) days after the end of the Term, shall submit to Owner a list of such specific prospective tenants (including addresses, telephone numbers and primary contacts) along with a copy of such proposal(s). This §4.4 shall survive a termination of this Agreement.

5. INDEMNITIES. This §5 shall survive a termination of this Agreement.

- 5.1. **By Owner.** Subject to §5.3, Owner shall indemnify, defend, and hold Broker (and its officers, shareholders, partners, members, managers, employees, agents, and representatives) harmless from and against any and all costs, expenses, attorneys' fees, suits, liabilities, damages, and/or claims for damages that are caused by the gross negligence or willful misconduct of Owner or its agents or employees.
- 5.2. **By Broker.** Subject to §5.3, Broker shall indemnify, defend, and hold Owner (and its officers, shareholders, partners, members, managers, employees, agents, and representatives) harmless from and against any and all costs, expenses, attorneys' fees, suits, liabilities, damages, and/or claims for damages that are caused by (a) the gross negligence or willful misconduct of Broker

or its agents or employees, or (b) any claim for any commission, compensation, fee or other charges by any party claiming by, through or under Broker (except if (1) Broker enters into a commission agreement with another realtor, broker or agent, and (2) Owner does not pay a commission rightfully due to Broker hereunder).

5.3. **Waiver of Claims; no Subrogation.** Notwithstanding anything to the contrary in this Agreement, Owner and Broker hereby waive and release each other of and from any and all right of recovery, claim, action, or cause of action against each other or their respective agents, officers, and employees, in each case for any loss or damage to the Property regardless of cause (including, without limitation, the negligence of Owner, Broker, or any of their respective agents, officers, or employees) to the extent same is insured against under insurance policies carried by Owner or Broker (or if such policies were not maintained in breach of this Agreement, then to the extent same would have been insured against under the policies required to be maintained under this Agreement). Owner and Broker agree to obtain a waiver of subrogation from the respective insurance companies, and to have the insurance policies endorsed (if necessary) to prevent the invalidation of the insurance coverages due to the mutual waivers.

6. **INSURANCE.** Broker shall maintain (or cause its delegates to maintain, as applicable) the following insurance coverage during the term, in each case with commercially reasonable deductibles: (a) if Broker has any employees, then worker's compensation insurance and employer's liability insurance in the minimum amounts required by Illinois law; (b) commercial general liability insurance for claims of bodily injury, personal injury, advertising injury, property damage, and broad-form automobile coverage with a combined single limit of at least one million dollars (\$1,000,000); and (c) excess or umbrella liability insurance with a combined single limit of at least one million dollars (\$1,000,000). Owner, its property manager, and its mortgage lender shall be named additional insureds on the coverages described in clauses (b) and (c) above. Upon Owner's request, Broker shall furnish Owner with certificates of insurance or other proof evidencing such coverage. Broker agrees to notify Owner within five (5) days after (i) Broker's receipt of notice of cancellation or termination of any such coverage, and (ii) the filing of a claim related to this Agreement under such coverage.

7. **SUBORDINATION.** This Agreement shall be subordinate to any mortgage or other security instrument and any renewals, modifications or extensions thereof that now or hereafter covers all or any part of the Property. The foregoing, however, shall not be construed (and shall not) waive, terminate, or diminish Broker's right to any commissions that have become due to Broker in accordance with this Agreement prior to any foreclosure, deed in lieu of foreclosure, similar conveyance, or termination of this Agreement. Within five (5) business days following the written request from time to time of Owner or the holder of any such mortgage or security instrument, Broker shall execute and deliver such documents as may be reasonably requested to confirm such subordination.

8. **NOTICES.** All notices, requests, consents, approvals, demands and other communications required or allowed under this Agreement (1) must be (i) in writing, (ii) delivered to the address/addresses written below (or to such other address/addresses as either party may from time to time specify in a written notice to the other in accordance with this §8), and (iii) delivered by email, personal delivery, or an overnight courier; and (2) shall be effective when delivered or delivery is refused (whether affirmatively or due to the recipient failing to maintain a current address for receiving notices with the sender).

Owner

1357 Property Owner, LLC
% R2 Companies, LLC
1200 N. North Branch St., #200
Chicago, IL 60642
Attention: Matthew G. Garrison, Max

Agent

1357 Service Provider, LLC
% R2 Companies, LLC
1200 N. North Branch St., #200
Chicago, IL 60607
Attention: Matt Garrison

Meyers, and Brendon Martin, Esq.
Email: mg@r2.me, mmeyers@r2.me,
and bmartin@r2.me

With copies to:

1357 Property Owner, LLC
% Blue Star Properties, Inc.
600 W. Van Buren, Suite 1000
Chicago, IL 60607
Attention: Craig Golden
Email: craig@bluestarproperties.net

and

1357 Property Owner, LLC
% Polsky Holdings, Inc.
1 S. Wacker Dr., Suite 1810
Chicago, IL 60606
Attention: Michael Polsky
Email:
statements@polskyholdings.com &
jtaiber@polskyholdings.com

Email: mg@r2.me

With a copy to:

1357 Service Provider, LLC
% Blue Star Properties, Inc.
600 W. Van Buren, Suite 1000
Chicago, IL 60607
Attention: Craig Golden
Email: craig@bluestarproperties.net

9. MISCELLANY.

- 9.1. Representation. Broker represents and warrants to Owner that Broker (a) is duly organized, validly existing, and in good standing under the laws of the State of Illinois, and (b) has the power and authority to execute, deliver and perform this Agreement.
- 9.2. Relationship. Broker is and shall be an independent contractor of Owner. Nothing contained in this Agreement shall be construed to create an employer-employee, agent-principal, joint venturer, or partner relationship between Broker and Owner.
- 9.3. No Recording. Neither Owner nor Broker shall record this Agreement or a memorandum thereof in the public records.
- 9.4. Construction.
 - 9.4.1. This Agreement is the entire agreement between Broker and Owner concerning the subject matter hereof and supersedes and replaces any previous agreements between regarding the subject hereof. Each of Owner and Broker has reviewed and approved this Agreement and accordingly, rules of construction that resolve ambiguities against the drafting party shall not be used in interpreting this Agreement. The section headings contained in this Agreement are for convenience only.
 - 9.4.2. No modification or amendment of, or waiver under, this Agreement shall be binding on either party unless it is in writing (and with respect to any modification or amendment, signed by both parties). No waiver of any breach, covenant, or other provision in this Agreement shall be deemed a waiver of (a) any preceding or succeeding breach of such covenant or provision or (b) any other covenant or provision in this Agreement. No extension of time to perform any obligation or act under or pursuant to this Agreement shall be deemed an extension of the time to perform any other obligation or act under or pursuant to this Agreement.

- 9.4.3. The invalidity or unenforceability of any provision of this Agreement shall not affect or impair any other provisions of this Agreement. Time is of the essence in this Agreement. Illinois law shall govern this Agreement without regard to its conflict of law provisions. All disputes related to this Agreement shall be brought in the Circuit Court of Cook County, Illinois. The substantially prevailing party in any such dispute shall be entitled to recover all fees and other costs incurred in connection therewith, including, without limitation, reasonable attorneys' fees.
- 9.5. Successors and Assignees. The covenants and agreements contained in this Agreement shall inure exclusively to the benefit of, and be binding upon, the parties hereto and their permitted successors and assignees, and no other parties. Notwithstanding the foregoing, without the prior written consent of Owner (which may be withheld in Owner's sole discretion), (i) Broker shall not assign this Agreement and (ii) except to an Affiliate (defined below), Broker shall not delegate or otherwise transfer any of its rights or obligations under this Agreement. For purposes of this Agreement, "**Affiliate**" shall mean R2 Property Management, LLC, R2 Design Build, LLC, R2 Companies, LLC, Blue Star Properties, Inc., and any other entity that directly or indirectly controls, is controlled by, or is under common control with Broker, Matthew Garrison, Nathan Laurell, and/or Craig Golden (whether directly or indirectly).
- 9.6. Execution. This Agreement may be executed in counterparts, and non-original signatures shall be as effective as originals for all purposes.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto hereby execute and enter into this Agreement as of the first date written above.

OWNER

1357 Property Owner, LLC, a Delaware limited liability company

By: 1357 Elston JV, LLC, its Manager

By: 1357 Sponsor, LLC, its Manager

By: _____
Name: _____
Title: Authorized Signatory

BROKER

1357 Service Provider, LLC, an Illinois limited liability company

By: 1357 Sponsor, LLC, its Manager

By: _____
Name: _____
Title: Authorized Signatory

EXHIBIT F
FORM OF GC AGREEMENT

[Attached]

MASTER GENERAL CONTRACTOR'S AGREEMENT

THIS MASTER GENERAL CONTRACTOR'S AGREEMENT ("Agreement") is made as of the 2nd day of July, 2020, between BLUE STAR PROPERTIES, INC., an Illinois corporation ("Contractor"), and 1357 PROPERTY OWNER, LLC, a Delaware limited liability company ("Owner").

RECITALS

WHEREAS, Owner is the fee simple owner of the property commonly known as 1357 N. Elston Avenue, Chicago, Illinois (the "Property").

WHEREAS, Owner contemplates the construction of various improvements at the Property for which the Contractor will act as general contractor in accordance with the terms and conditions hereof.

NOW, THEREFORE, Owner and Contractor agree as follows:

ARTICLE 1 **THE WORK OF THIS CONTRACT**

1.1 Certain Definitions.

1.1.1. The term "Approved Task Order" means a task order in substantially the form attached hereto as EXHIBIT A and signed by Owner and Contractor. The term "Work" means the work described in each Approved Task Order and shall include all construction and services required by the Contract Documents (defined below) with respect to such work, including all labor, materials, equipment and services provided or to be provided by Contractor to fulfill Contractor's obligations as set forth in the Contract Documents with respect to such work.

1.1.2. The "Contract Documents" shall consist of this Agreement, each Approved Task Order together with any exhibits attached thereto, and any Modifications issued after execution of this Agreement. A "Modification" is (1) a written amendment to the Contract Documents signed by both parties, or (2) a written order for a change in the Work signed by both parties (with the Contract Sum and Contract Time being adjusted accordingly, if needed). The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by Contractor.

1.2 Execution. Contractor shall execute the Work in accordance with: (i) Contractor's obligations as set forth herein; and (ii) the Contract Documents, including each Approved Task Order.

ARTICLE 2 **DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

The date of commencement of the Work shall be the date set forth in each Approved Task Order. The Contract Time shall be specified in each Approved Task Order and shall be measured from the date of commencement for the corresponding Work.

ARTICLE 3 **CONTRACT SUM**

Owner shall pay Contractor the Contract Sum specified in each Approved Task Order, through progress payments, in current funds for Contractor's performance of the corresponding Work. The Contract Sum shall be the Cost of the Work (defined below) for the particular Work, plus a Contractor's

fee equal to 10 percent of the total hard costs within such Cost of the Work (the “Fee”). The term “Cost of the Work” shall mean the cost of all labor and materials necessarily incurred by the Contractor in the proper performance of the Work, in each case as set forth in each Approved Task Order. For clarity, it is acknowledged and agreed that the Fee shall be the sole fee paid to Contractor in connection with the Work, and in no event shall any other fees, payments for general conditions or overhead, or similar compensation be paid to Contractor.

ARTICLE 4 PAYMENTS

Owner shall make progress payments based upon a customary application for payment, which shall include invoices, a contractor’s sworn statement, partial or final lien waivers (as applicable) and any other documents reasonably requested by Owner (each, an “Application for Payment”), that is submitted to, and approved by, Owner in accordance with this Agreement. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or otherwise agreed to by Owner and Contractor. Owner shall make payment on an Application for Payment conforming with the requirements of this Agreement within 30 days after receiving an approved Application for Payment.

ARTICLE 5 GENERAL PROVISIONS

5.1 Force Majeure. Neither party hereto shall be in default under this Agreement if and to the extent such default is caused by Force Majeure. As used herein, “Force Majeure” means any of the following events or circumstances:

- (a) Act of God, including any natural disaster.
- (b) Severe weather conditions resulting in construction stoppages for projects generally in the vicinity of the Property.
- (c) Fire.
- (d) Flood.
- (e) Earthquake.
- (f) Casualty.
- (g) Civil commotion or unrest.
- (h) Act of war.
- (i) Enemy action.
- (j) Act of terrorism.
- (k) Epidemics, pandemics and/or quarantines.
- (l) Condemnation or other exercise of a right of eminent domain.

- (m) Event for which a Federal, state or local governmental body has declared a state of emergency or has ordered the cessation or suspension of work, including by the United States Department of Homeland Security.
- (n) Governmental restrictions upon the Property, including any construction or repair work thereon, that is not the result of any action, inaction, or breach of this Agreement on the part of Contractor.
- (o) Governmental restrictions upon the movement of persons (including so-called shelter in place orders).
- (p) Legal proceedings by third parties seeking to stop, delay or enjoin any action by Owner and not caused by any unlawful or wrongful action or breach of this Agreement by Contractor.
- (q) Court orders not arising from any unlawful or wrongful action or breach of this Agreement by Contractor.
- (r) Infrastructure failures (such as broken water mains) in the vicinity of the Property, except if caused by any action, inaction, or breach of this Agreement by Contractor.
- (s) Moratorium declared by a governmental authority on the issuance of any permits, licenses or authorizations, however characterized, necessary for any work on the Property.
- (t) Changes to laws and regulations in any material respect which have a direct and material effect on the Property or any work to be performed thereon.
- (u) Any strike, lockout or labor dispute that is not limited to the Work (i.e., involves more than the Property) and is not caused by any action, inaction, or breach of this Agreement by Contractor.
- (v) Any cyberattack, malicious mischief or breach of security adversely affecting the Property or any work to be performed thereon, except if same is caused by any action, inaction, or breach of this Agreement by Contractor.
- (w) Any other act, event, occurrence or circumstance that is outside of Contractor's reasonable control.

Notwithstanding anything to the contrary above, no claim of Force Majeure by a party shall be valid if (or to the extent) such party caused such Force Majeure.

If Force Majeure occurs, then the affected party must notify the other party within two (2) business days thereafter and use commercially reasonable to minimize the disruption caused by such Force Majeure. Unless the Force Majeure reasonably makes the performance of a party's obligations under this Agreement impossible, any Force Majeure shall not permanently excuse the performance of any party's obligations under this Agreement. Rather, such performance shall be delayed until such performance can reasonably be re-commenced and completed.

5.2 Termination and Suspension.

5.2.1. Owner may immediately terminate this Agreement if (a) Contractor commits fraud or intentional misconduct, (b) Contractor materially breaches this Agreement and does not cure such breach within 14 days after receiving a written notice thereof from Owner (provided however, that if such breach reasonably requires longer than 14 days to cure, then Contractor shall have up to 30 days to cure such breach if Contractor commences curing such breach during the initial 14-day period), or (c) 1357 Sponsor, LLC (“Sponsor”) is removed as the manager of 1357 Elston JV, LLC (“JV”) due to a Manager Event of Default under the Amended and Restated Operating Agreement of JV of even date herewith by and among Sponsor, Skydeck Real Estate I, LLC, Pradera Investments LLC, and Timothy Parker. Additionally, at Owner’s convenience and with prior written notice to Contractor, Owner may suspend any portion of the Work or terminate this Agreement.

5.2.2. If Owner so suspends the Work, then the Contract Sum and the Contract Time shall be adjusted for increases in the cost and time caused by suspension. If Owner terminates this Agreement in accordance with Section 5.2.1, then Contractor shall be entitled to receive payment for all Work executed, any reasonable out-of-pocket costs incurred due to such termination, and reasonable overhead and profit on the Work not executed.

ARTICLE 6 CONTRACTOR

6.1 Supervision and Construction Procedures. Contractor shall supervise and direct the Work. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract Documents. Contractor shall (i) be solely responsible for any and all safety precautions in connection with the Work, (ii) take all necessary precautions for the safety and security of the jobsite and all persons involved in the Work, and (iii) maintain a safe worksite that complies with all applicable laws and regulations (including, without limitation, OSHA). Contractor shall be responsible for acts and omissions of Contractor’s employees, subcontractors and their agents and employees, and other persons or entities performing portions of the Work. Contractor shall perform (or cause to be performed, as applicable) the Work in a good and workmanlike manner, in accordance with the standard of care used by general contractors performing similar work for projects similar to this project, and in compliance with applicable laws. Contractor shall make sure that the Work is completed in accordance with the Contract Documents.

6.2 Indemnification. To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless Owner and its agents and employees from and against claims, damages, losses and expenses, including attorneys’ fees, arising out of or resulting from (a) the performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder, or (b) a material breach of this Agreement that Contractor does not promptly cure after receiving a written notice thereof from Owner. Owner shall indemnify, defend, and hold harmless Contractor from and against claims, damages, losses and expenses, including attorneys’ fees, arising out of or resulting from the gross negligence or willful misconduct of Owner.

ARTICLE 7 INSURANCE

Contractor shall and maintain insurance specified in EXHIBIT B, attached hereto and made a part hereof.

ARTICLE 8
MISCELLANEOUS PROVISIONS

8.1 Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation (as applicable) for which it was intended; or if delivered at or sent by registered or certified mail, by courier service or by email to the address(es) written below.

- (i) If to Contractor: Blue Star Properties, Inc.
 600 W. Van Buren Street, Suite 1000
 Chicago, IL 60607
 Attention: Craig Golden
 Email: craig@bluestarproperties.net
- (ii) If to Owner: 1357 Property Owner, LLC
 % R2 Companies, LLC
 1200 N. North Branch St., #200
 Chicago, IL 60642
 Attention: Matthew G. Garrison, Max Meyers, and Brendon Martin, Esq.
 Email: mg@r2.me, mmeyers@r2.me, and bmartin@r2.me
- With a copy to: 1357 Property Owner, LLC
 % Polsky Holdings, Inc.
 1 S. Wacker Dr., Suite 1810
 Chicago, IL 60606
 Email: statements@polskyholdings.com &
 jtaiber@polskyholdings.com

or to such other address or addressee as any party entitled to receive notice hereunder shall designate to all other parties in the manner provided herein for the service of notice not less than 1 day prior to the effectiveness of such other address or addressee.

8.2 This Agreement shall be subordinate to any mortgage or other security instrument (and any renewals, modifications, or extensions thereof) that now or hereafter covers all or any part of the Property. The foregoing, however, shall not be construed (and shall not) waive, terminate, or diminish Contractor's right to any sums that have become due to Contractor in accordance with this Agreement prior to any foreclosure, deed in lieu of foreclosure, similar conveyance, or termination of this Agreement.

8.3 The recitals are incorporated herein. Unless specifically written to the contrary, all instances in this Agreement of "including" shall mean "including, without limitation.". Contractor is and shall be an independent contractor of Owner. Neither party shall assign any of its rights or obligations under this Agreement without the other's prior written consent. With respect to the subject matter hereof, this Agreement is the complete and integrated agreement between the parties hereto. The invalidity or unenforceability of any provision of this Agreement shall not affect or impair any other provisions of this Agreement. This Agreement may be executed in counterparts, and electronic or otherwise non-original signatures shall be as effective as originals for all purposes.

[SIGNATURES APPEAR ON FOLLOWING PAGE; REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

This Agreement is entered into as of the day and year first written above.

OWNER:

1357 PROPERTY OWNER, LLC, a Delaware limited liability company

By: 1357 Elston JV, LLC, its Manager

By: 1357 Sponsor, LLC, its Manager

By: _____
Name: _____
Title: _____

CONTRACTOR:

BLUE STAR PROPERTIES, INC., an Illinois corporation

By: _____
Name: _____
Title: _____

EXHIBIT A

Form of Approved Task Order

Approved Task Order relating to the Master General Contractor's Agreement dated as of July 2, 2020 by and between Blue Star Properties, Inc., an Illinois corporation ("Contractor"), and 1357 Property Owner, LLC, a Delaware limited liability company ("Owner"), pertaining to the property commonly known as 1357 N. Elston, Chicago, Illinois.

Effective Date: _____

Work:

[Describe in detail for this task, by scope and type. Include references to drawings, plans and specifications, alternates.]

Contract Sum:

Contract Time:

Commencement:

Completion:

Budget/Schedule of Values:

Special Conditions or Requirements:

OWNER:

1357 PROPERTY OWNER, LLC, a Delaware limited liability company

By: 1357 Elston JV, LLC, its Manager

By: 1357 Sponsor, LLC, its Manager

By: _____
Name: _____
Title: _____

CONTRACTOR:

BLUE STAR PROPERTIES, INC., an Illinois corporation

By: _____
Name: _____
Title: _____

EXHIBIT B

Insurance Requirements

1. Workers Compensation Insurance in compliance with the laws of the State where the Property is located.

2. Employers Liability Insurance with limits of not less than \$1,000,000 per accident per employee, \$1,000,000 per disease per employee, and \$1,000,000 per disease policy limit.

3. Commercial General Liability insurance written on occurrence form CG 00 01 or equivalent, with defense costs in addition to limits, insuring Bodily Injury and Project Damage, including Product and Completed Operations coverage, Contractual Liability (insured contract) Coverage, Independent Contractor's coverage, Personal Injury coverage and Advertising Injury coverage, without exclusion for explosion, collapse or underground hazards, in an amount not less than \$5,000,000 per occurrence Combined Single Limit per location or project, which can be satisfied by a combination of primary and umbrella excess insurance. Owner, its agents, lender, and each of their respective direct and indirect partners, officers, shareholders, directors, members, trustees, beneficiaries, employees, agents and representatives ("Owner Indemnified Parties") shall be named as additional insureds on ISO form CG 20 10 07 04 and CG 20 37 07 04 or CG 20 10 11 85 or an equivalent form of a Blanket Additional Insured Endorsement for loss arising from Contractor's operations and completed operations for as long as the additional insureds may be exposed to liability arising from Contractor's work. The Commercial General Liability insurance policy shall further provide for (i) severability of interests wherein Contractor is insured against any claims that may be brought by the additional insureds, and (ii) that the Aggregate limit shall apply to Owner's project or location. Any deductibles or self-insured retentions must be declared to and approved by Owner prior to commencing any work. In the event that any Owner Indemnified Party makes a claim under Contractor's CGL policy as an additional insured, it shall be the sole obligation of Contractor, and not the applicable Owner Indemnified Party, to satisfy any deductible or self-insured retention.

4. Automobile Liability Insurance on all owned, non-owned, hired or leased automotive equipment used in the performance of the Work in amounts not less than \$1,000,000 Combined Single Limit for bodily injury and project damage for each accident.

5. Valuable papers (or Blueprints and Construction Documents) coverage with limits not less than \$50,000. Contractor shall use proceeds to replace reports, drawings, plans and/or other deliverables furnished under this Agreement.

6. Contractor may also carry such other insurance as it deems necessary for its own protection, and any such insurance must include a waiver of the insurers' rights of subrogation against Owner Indemnified Parties.

7. In the event of cancellation or non-renewal of any insurance coverage or insurance policy as required herein in this Exhibit, Contractor agrees to provide at least thirty (30) days prior written notice of such cancellation or non-renewal to Owner, and ten (10) days prior written notice of cancellation if cancellation is for non-payment of premium. Such written notice of cancellation shall be delivered by hand delivery or overnight delivery service to Owner. Should any policy expire or be canceled before final payment to Contractor and Contractor fails to immediately procure other insurance as specified, Owner reserves the right to procure such insurance as will protect Owner from such failure, and to charge Contractor for such costs and/or deduct the cost from any sum due Contractor under this Agreement.

8. All policies required by this Agreement shall be written by insurance carriers licensed to do business in each state in which Contractor is doing business, which carriers are rated no less than A-VII by the most recent edition of Best's Key Rating Guide, and are otherwise reasonably satisfactory to Owner. Self-insurance of any coverage, or part thereof, is acceptable only upon written consent of Owner after Contractor has provided proof of financial ability to support such self-insurance, and shall be entirely for the account of Contractor, waiving all rights of recovery against Owner Indemnified Parties for any sums expended by Contractor. To the fullest extent permitted by law, all policies shall provide that the insurer unequivocally waives any right of subrogation against Owner Indemnified Parties.

9. Contractor shall be responsible for the amount of any deductible or self-insured retention contained in any of the above-described insurance policies of insurance. Contractor's insurance shall be deemed primary with respect to coverage extended to the additional insureds, whose insurance shall be excess and non-contributory with that required of Contractor hereunder. Owner may require additional coverage if the work to be performed is, in Owner's judgment, sufficiently hazardous. Unless otherwise agreed by Owner in writing, Contractor shall require or provide the same minimum insurance requirements as listed above from all of its subcontractors with the exceptions that (i) the minimum limit on each type of Employer's Liability Coverage shall be \$500,000, and (ii) the minimum Combined Single Limit for Commercial General Liability and Excess/Umbrella Coverage shall be \$2,000,000.

EXHIBIT C

RESOLUTIONS OF THE MANAGING MEMBER OF 1357 PROPERTY OWNER, LLC

CERTIFICATE
1357 PROPERTY OWNER, LLC
1357 ELSTON JV, INC.

I, Craig Golden, as (i) an authorized signatory (as set forth below) of 1357 Property Owner, LLC, a Delaware limited liability company (“**1357 Owner**”), and (ii) managing member of 1357 Elston JV, LLC, a Delaware limited liability company (“**1357 JV**”) the managing member of 1357 Owner, hereby certify on behalf of 1357 Owner and 1357 JV that:

(a) I am the managing member and a duly appointed and qualified authorized signatory of the 1357 JV, and as such am duly authorized to execute this document on behalf of 1357 JV.

(b) 1357 JV is the sole managing member of 1357 Owner. As such, I am duly authorized to execute this document on behalf of 1357 Owner.

(c) The Operating Agreement of 1357 Owner, made as of December 28, 2017, and Operating Agreement of 1357 JV (each an “**Operating Agreement**” and collectively, the “**Operating Agreements**”) do not set forth any limitations on 1357 Owner’s and 1357 JV’s power to execute and deliver the 1357 Property Owner, LLC Redevelopment Agreement (the “**RDA**”), pursuant to which this Certificate is being delivered, or to perform their obligations and duties under the RDA and to take such actions necessary and incidental to performing their obligations thereunder.

(d) Execution and delivery of the RDA will constitute the duly authorized acts of 1357 Owner and 1357 JV. Upon such execution and delivery, the RDA (i) will have been properly authorized, executed and delivered on behalf of 1357 Owner and 1357 JV, (ii) will constitute the legal, valid and binding obligation of 1357 Owner and 1357 JV, and (iii) will be enforceable against 1357 Owner and 1357 JV in accordance with its terms; (iv) 1357 Owner will have all requisite limited liability company right, power, and authority to perform its obligations under the RDA and to take such actions necessary and incidental to performing its obligations thereunder; and (v) 1357 JV will have all requisite limited liability company right, power, and authority to perform its obligations under the RDA and to take such actions necessary and incidental to performing its obligations thereunder. The execution, delivery, and undertaking of performance under the RDA will not conflict with, or result in a violation of the Certificates of Formation or Operating Agreements of 1357 Owner and 1357 JV.

[Signature Page Follows]

IN WITNESS WHEREOF, I have hereunto signed my name to this Certificate this 28th day of July, 2022.

1357 PROPERTY OWNER, LLC, a Delaware limited liability company

By: 1357 ELSTON JV, LLC, its manager


By: Craig Golden
Its: Managing Member

1357 ELSTON JV, LLC, a Delaware limited liability company


By: Craig Golden
Its: Managing Member

EXHIBIT L
REQUISITION FORM

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The affiant, _____ of 1357 Property Owner, LLC, a Delaware limited liability company (the "Developer"), hereby certifies that with respect to that certain Morton Salt Redevelopment Agreement between Developer and the City of Chicago dated _____, _____ (the "Agreement"):

A. Expenditures for the Project, in the total amount of \$_____, have been made:

B. This paragraph B sets forth and is a true and complete statement of all costs of TIF-Funded Improvements for the Project reimbursed by the City to date:

\$_____

C. Developer requests reimbursement for the following cost of TIF-Funded Improvements:

\$_____

D. None of the costs referenced in paragraph C above have been previously reimbursed by the City.

E. Developer hereby certifies to the City that, as of the date hereof:

1. Except as described in the attached certificate, the representations and warranties contained in the Agreement are true and correct and Developer is in compliance with all applicable covenants contained herein.

2. 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.

All capitalized terms which are not defined herein has the meanings given such terms in the Agreement.

1357 Property Owner, LLC, a Delaware limited liability company
in
By: 1357 Elston JV, LLC, its manager

Name

Title: _____

Subscribed and sworn before me this ____ day of _____
_____.

My commission expires: _____

Agreed and accepted:

Name
Title: _____
City of Chicago
Department of Planning and Development

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH)
REDEVELOPMENT PROJECT

FINANCIAL REPORT

DECEMBER 31, 2022

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH) REDEVELOPMENT PROJECT

CONTENTS

	<u>Page</u>
INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL STATEMENTS AND SUPPLEMENTARY INFORMATION	1-2
Management's discussion and analysis	3-5
Statement of net position and governmental fund balance sheet	6
Statement of activities and governmental fund revenues, expenditures and changes in fund balance	7
Notes to financial statements	8-10
SUPPLEMENTARY INFORMATION	
Schedule of expenditures by statutory code	11



INDEPENDENT AUDITOR'S REPORT

The Honorable Brandon Johnson, Mayor
Members of the City Council
City of Chicago, Illinois

Opinion

We have audited the accompanying financial statements of the North Branch (South) Redevelopment Project of the City of Chicago, Illinois, as of and for the year ended December 31, 2022, and the related notes to the financial statements, which collectively comprise the Project's basic financial statements as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the North Branch (South) Redevelopment Project of the City of Chicago, Illinois, as of December 31, 2022, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the City of Chicago, Illinois, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Emphasis of Matter

As described in Note 1, the financial statements of the North Branch (South) Redevelopment Project, City of Chicago, Illinois, are intended to present the financial position and the changes in financial position, of only that portion of the special revenue funds of the City of Chicago, Illinois that is attributable to the transactions of the North Branch (South) Redevelopment Project. They do not purport to, and do not, present the financial position of the City of Chicago, Illinois, as of December 31, 2022 and the changes in its financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America; and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery,

intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City of Chicago's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise the North Branch (South) Redevelopment Project's basic financial statements. The Schedule of Expenditures by Statutory Code is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, such information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.



June 29, 2023

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH) REDEVELOPMENT PROJECT

MANAGEMENT'S DISCUSSION AND ANALYSIS
(UNAUDITED)

As management of the North Branch (South) Tax Increment Redevelopment Project Area (Project), we offer the readers of the Project's financial statements this narrative overview and analysis of the Project's financial performance for the year ended December 31, 2022. Please read it in conjunction with the Project's financial statements, which follow this section.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the Project's basic financial statements. The Project's basic financial statements include three components: 1) government-wide financial statements, 2) governmental fund financial statements, and 3) notes to the financial statements. This report also contains other supplementary information concerning the Project's expenditures by statutory code.

Basic Financial Statements

The basic financial statements include two kinds of financial statements that present different views of the Project – the *Government-Wide Financial Statements* and the *Governmental Fund Financial Statements*. These financial statements also include the notes to the financial statements that explain some of the information in the financial statements and provide more detail.

Government-Wide Financial Statements

The government-wide financial statements provide both long-term and short-term information about the Project's financial status and use accounting methods similar to those used by private-sector companies. The statement of net position includes all of the project's assets and liabilities. All of the current year's revenues and expenses are accounted for in the statement of activities regardless of when cash is received or paid. The two government-wide statements report the Project's net position and how they have changed. Net position – the difference between the Project's assets and liabilities – is one way to measure the Project's financial health, or position.

Governmental Fund Financial Statements

The government fund financials provide more detailed information about the Project's significant funds – not the Project as a whole. Governmental funds focus on: 1) how cash and other financial assets can readily be converted to cash flows and 2) the year-end balances that are available for spending. Consequently, the governmental fund statements provide a detailed short-term view that helps determine whether there are more financial resources that can be spent in the near future to finance the Project. Because this information does not encompass the additional long-term focus of the government-wide statements, we provide additional information at the bottom of the statements to explain the relationship (or differences) between them.

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH) REDEVELOPMENT PROJECT

MANAGEMENT'S DISCUSSION AND ANALYSIS
(UNAUDITED)
(Continued)

Notes to the Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and governmental fund financial statements. The notes to the financial statements follow the basic financial statements.

Other Supplementary Information

In addition to the basic financial statements and accompanying notes, this report also presents a schedule of expenditures by statutory code. This supplementary information follows the notes to the financial statements.

Condensed Comparative Financial Statements

The condensed comparative financial statements are presented on the following page.

Analysis of Overall Financial Position and Results of Operations

Property tax revenue for the Project was \$1,523,123 for the year. This was a decrease of 86 percent over the prior year. The change in net position (including other financing uses) produced a decrease in net position of \$31,275,414. The Project expired effective December 31, 2022 with a net position that decreased by 91 percent from the prior year making available the remaining fund balance/net position of \$3,247,542 to be returned to the Cook County Treasurer's Office as a surplus distribution (see Note 5). Revenues decreased this year due to the Project's redevelopment plan of land acquisition, removing dilapidated or deteriorating structures and accordingly decreasing the total equalized assessed value of parcels and subsequent tax increment and related collections. Expenses increased this year due to the Project's formulation of a redevelopment plan or necessary funding was substantially complete and available.

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH) REDEVELOPMENT PROJECT

MANAGEMENT'S DISCUSSION AND ANALYSIS
(UNAUDITED)
(Concluded)

Government-Wide

	2022	2021	Change	% Change
Total assets	\$ 3,411,638	\$ 34,797,161	\$ (31,385,523)	-90%
Total liabilities	164,096	274,205	(110,109)	-40%
Total net position	<u>\$ 3,247,542</u>	<u>\$ 34,522,956</u>	<u>\$ (31,275,414)</u>	-91%
Total revenues	\$ 1,981,617	\$ 10,782,074	\$ (8,800,457)	-82%
Total expenses	4,895,231	276,650	4,618,581	1,669%
Other financing uses	28,361,800	29,600,000	(1,238,200)	-4%
Changes in net position	(31,275,414)	(19,094,576)	(12,180,838)	-64%
Ending net position	<u>\$ 3,247,542</u>	<u>\$ 34,522,956</u>	<u>\$ (31,275,414)</u>	-91%

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH) REDEVELOPMENT PROJECT

STATEMENT OF NET POSITION AND
GOVERNMENTAL FUND BALANCE SHEET
DECEMBER 31, 2022

<u>ASSETS</u>	Governmental Fund	Adjustments	Statement of Net Position
Cash and investments	\$ 546,558	\$ -	\$ 546,558
Property taxes receivable	1,464,819	-	1,464,819
Other accounts receivable	1,335,168	-	1,335,168
Accrued interest receivable	<u>65,093</u>	-	<u>65,093</u>
Total assets	<u>\$ 3,411,638</u>	<u>\$ -</u>	<u>\$ 3,411,638</u>
<u>LIABILITIES</u>			
Due to other City funds	<u>\$ 164,096</u>	<u>\$ -</u>	<u>\$ 164,096</u>
<u>FUND BALANCE/NET POSITION</u>			
Fund balance:			
Restricted for surplus distribution (Note 5)	<u>3,247,542</u>	<u>(3,247,542)</u>	-
Total liabilities and fund balance	<u>\$ 3,411,638</u>		
Net position:			
Restricted for surplus distribution (Note 5)	<u>3,247,542</u>	<u>3,247,542</u>	<u>3,247,542</u>
Total net position	<u>\$ 3,247,542</u>	<u>\$ 3,247,542</u>	<u>\$ 3,247,542</u>

The accompanying notes are an integral part of the financial statements.

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH) REDEVELOPMENT PROJECT

STATEMENT OF ACTIVITIES AND GOVERNMENTAL FUND REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
FOR THE YEAR ENDED DECEMBER 31, 2022

	Governmental Fund	Adjustments	Statement of Activities
Revenues:			
Property tax	\$ 10,182,016	\$ (8,658,893)	\$ 1,523,123
Interest	<u>458,494</u>	<u>-</u>	<u>458,494</u>
Total revenues	10,640,510	(8,658,893)	1,981,617
Expenditures/expenses:			
Economic development projects	<u>4,895,231</u>	<u>-</u>	<u>4,895,231</u>
Excess of revenues over expenditures	5,745,279	(8,658,893)	(2,913,614)
Other financing uses:			
Surplus distribution (Note 2)	(3,361,800)	-	(3,361,800)
Operating transfers out (Note 3)	<u>(25,000,000)</u>	<u>-</u>	<u>(25,000,000)</u>
Total other financing uses	<u>(28,361,800)</u>	<u>-</u>	<u>(28,361,800)</u>
Excess of expenditures and other financing uses over revenues	(22,616,521)	22,616,521	-
Change in net position	-	(31,275,414)	(31,275,414)
Fund balance/net position:			
Beginning of year	<u>25,864,063</u>	<u>8,658,893</u>	<u>34,522,956</u>
End of year	<u>\$ 3,247,542</u>	<u>\$ -</u>	<u>\$ 3,247,542</u>

Amounts reported for governmental activities in the statement of activities are different because:

Net change in fund balance - governmental fund	\$ (22,616,521)
Property tax revenue is recognized in the period for which levied rather than when "available". A portion of the deferred property tax revenue is not available.	<u>(8,658,893)</u>
Change in net position - governmental activities	<u>\$ (31,275,414)</u>

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH) REDEVELOPMENT PROJECT

NOTES TO FINANCIAL STATEMENTS

Note 1 – Summary of Significant Accounting Policies

(a) *Reporting Entity*

In February 1998, the City of Chicago (City) established the North Branch (South) Tax Increment Redevelopment Project Area (Project). The area has been established to finance improvements, leverage private investment and create and retain jobs. The Project is accounted for within the special revenue funds of the City.

The financial statements present only the activities of the North Branch (South) Tax Increment Redevelopment Project and do not purport to present the financial position and the changes in financial position of any other special revenue funds of the City of Chicago, Illinois, as of December 31, 2022 and for the year then ended in accordance with accounting principles generally accepted in the United States of America.

(b) *Accounting Policies*

The accounting policies of the Project are based upon accounting principles generally accepted in the United States of America as prescribed by the Governmental Accounting Standards Board (GASB).

(c) *Government-wide and Fund Financial Statements*

The government-wide financial statements (i.e., the statement of net position and the statement of activities) and the governmental fund financial statements (i.e., the balance sheet and the statement of governmental fund revenues, expenditures and changes in fund balance) report information on the Project. See Note 1(a).

(d) *Measurement Focus, Basis of Accounting and Financial Statements Presentation*

The government-wide financial statements are reported using the *economic resources measurement focus* and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred regardless of the timing of related cash flows. Property taxes are recognized as revenues in the year for which they are levied.

The governmental fund financial statements are reported using the *current financial resources measurement focus* and the *modified accrual basis of accounting* with only current assets and liabilities included on the balance sheet. Under the *modified accrual basis of accounting*, revenues are recorded when susceptible to accrual, i.e., both measurable and available to finance expenditures of the current period. Available means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. Property taxes are susceptible to accrual and recognized as a receivable in the year levied. Revenue recognition is deferred unless the taxes are received within 60 days subsequent to year-end. Expenditures are recorded when the liability is incurred.

Private-sector standards of accounting and financial reporting issued prior to December 1, 1989, generally are followed in government-wide financial statements to the extent that those standards do not conflict with or contradict guidance of the Governmental Accounting Standards Board. The City has elected not to follow subsequent private-sector guidance.

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH) REDEVELOPMENT PROJECT

NOTES TO FINANCIAL STATEMENTS
(Continued)

Note 1 – Summary of Significant Accounting Policies (Continued)

(d) *Measurement Focus, Basis of Accounting and Financial Statements Presentation (Concluded)*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Accordingly, actual results could differ from these estimates.

(e) *Assets, Liabilities and Net Position*

Cash and Investments

Cash being held by the City is generally deposited with the City Treasurer as required by the Municipal Code of Chicago. The City Comptroller issues warrants for authorized City expenditures which represent a claim for payment when presented to the City Treasurer. Payment for all City warrants clearing is made by checks drawn on the City's various operating bank accounts.

The City Treasurer and City Comptroller share responsibility for investing in authorized investments. Interest earned and fair market value adjustments on pooled investments are allocated to participating funds based on their average combined cash and investment balances. Since investment income is derived from pooled investments, the fair value measurement and fair value hierarchy disclosures of GASB 72 will not be separately presented in a note disclosure.

The City values its investments at fair value or amortized cost. U.S. Government securities purchased at a price other than par with a maturity of less than one year are recognized at amortized cost.

Deferred Inflows

Deferred inflows represent deferred property tax revenue amounts to be recognized as revenue in future years in the governmental fund financial statements.

Capital Assets

Capital assets are not capitalized in the governmental fund but, instead, are charged as current expenditures when purchased. The Government-wide financial statements (i.e., the statement of net position and the statement of activities) of the City includes the capital assets and related depreciation, if any, of the Project in which ownership of the capital asset will remain with the City (i.e., infrastructure, or municipal building). All other construction will be expensed in both the government-wide financial statements and the governmental fund as the City nor Project will retain the right of ownership.

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH) REDEVELOPMENT PROJECT

NOTES TO FINANCIAL STATEMENTS
(Concluded)

Note 1 – Summary of Significant Accounting Policies (Concluded)

(f) *Stewardship, Compliance and Accountability*

Illinois Tax Increment Redevelopment Allocation Act Compliance

The Project's expenditures include reimbursements for various eligible costs as described in subsection (q) of Section 11-74.4-3 of the Illinois Tax Increment Redevelopment Allocation Act and the Redevelopment Agreement relating specifically to the Project. Eligible costs include but are not limited to survey, property assembly, rehabilitation, public infrastructure, financing and relocation costs.

Reimbursements

Reimbursements, if any, are made to the developer for project costs, as public improvements are completed and pass City inspection. Refer to Note 4 for reimbursements paid to the developer.

Note 2 – Surplus Distribution

In December 2021, the City declared a surplus within the fund balance of the Project in the amount of \$3,361,800. In January 2022, the surplus funds were sent to the Cook County Treasurer's Office to be redistributed to the various taxing agencies.

Note 3 – Operating Transfers Out

During 2022, in accordance with State statutes, the Project transferred \$5,000,000 and \$20,000,000 to the contiguous Cortland and Chicago River (Lincoln Yards) Redevelopment Project to fund the rehabilitation of the Webster Bridge over the Chicago River and the Lincoln Yards infrastructure redevelopment agreement.

Note 4 – Tax Abatement Payments

Under the terms of the redevelopment agreements, the Project paid the developers \$2,514,935 during the year ended December 31, 2022.

Note 5 - Expiration of Redevelopment Project

The Project expired on December 31, 2022. The remaining fund balance/net position will be distributed to the Cook County Treasurer's Office in 2023 to be allocated and redistributed in the same manner and proportion to the Project's respective taxing agencies after all applicable liabilities are settled.

SUPPLEMENTARY INFORMATION

CITY OF CHICAGO, ILLINOIS
NORTH BRANCH (SOUTH) REDEVELOPMENT PROJECT
SCHEDULE OF EXPENDITURES BY STATUTORY CODE

Code Description

Costs of studies, surveys, development of plans and specifications, implementation and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, marketing	\$ 167,941
Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings and fixtures	243,948
Costs of the construction of public works or improvements	<u>4,483,342</u>
	<u>\$ 4,895,231</u>

INDEPENDENT AUDITOR'S REPORT

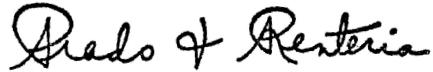
The Honorable Brandon Johnson, Mayor
Members of the City Council
City of Chicago, Illinois

We have audited, in accordance with auditing standards generally accepted in the United States of America, the financial statements of North Branch (South) Redevelopment Project of the City of Chicago, Illinois, which comprise the statement of net position and governmental fund balance sheet as of December 31, 2022, and the related statement of activities and governmental fund revenues, expenditures and changes in fund balance for the year then ended, and the related notes to the financial statements, and we have issued our report thereon dated June 29, 2023.

In connection with our audit, nothing came to our attention that caused us to believe that the Project failed to comply with the regulatory provisions in Subsection (q) of Section 11-74.4-3 of the Illinois Tax Increment Allocation Redevelopment Act and Subsection (o) of Section 11-74.6-10 of the Illinois Industrial Jobs Recovery Law as they relate to the eligibility for costs incurred incidental to the implementation of the North Branch (South) Redevelopment Project of the City of Chicago, Illinois.

However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding the Project's noncompliance with the above referenced regulatory provisions, insofar as they relate to accounting matters.

This report is intended for the information of the City of Chicago's management. However, this report is a matter of public record, and its distribution is not limited.



June 29, 2023