REDEVELOPMENT AGREEMENT
100 North Broadway

THIS REDEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this ____ day of _____, 2021, by and between the CITY OF AURORA, ILLINOIS, an Illinois municipal corporation (the "City"), and DAC DEVELOPMENTS, LLC, an Illinois limited liability company (the "Developer"), and DANIEL REZKO, an individual (the "Guarantor"), and with the Developer and the City, the "Parties").

PREAMBLES

WHEREAS, the City is a home rule unit of government in accordance with Article VII, Section 6 of the Constitution of the State of Illinois, 1970.

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.4-1, et seq., as from time to time amended (the "TIF Act"), the Mayor and Aldermen of the City (collectively, the "Corporate Authorities") are empowered to undertake the redevelopment of a designated area within its municipal limits in which existing conditions permit such area to be classified as a "conservation area or blighted area," as such terms are defined in the TIF Act; and

WHEREAS, the City is pursuing various economic development strategies to encourage development within and around the City's riverfront area (the "Riverfront Area"); and

WHEREAS, the Corporate Authorities have determined that blighting factors in the Riverfront Area are detrimental to the public and impair development and growth in the Riverfront Area, with the result that it is necessary to incur extraordinary costs in order to redevelop the Riverfront Area; and

WHEREAS, the blighting factors in the Riverfront Area will continue to impair growth and development but for the use of tax increment allocation financing to pay Redevelopment Project Costs, as that term is defined in Section 3(d) of this Agreement; and

WHEREAS, the Developer is the contract purchaser of certain real estate located at the address commonly known as 100 North Broadway, Aurora, Illinois, which said real estate is depicted on Exhibit A and legally described on Exhibit B (the "Property"); and

WHEREAS, the Property is currently an unimproved lot utilized as a parking lot; and

WHEREAS, Developer proposes to redevelop the Property, by constructing a five-story building consisting of 246 market rate apartment units with a mix of studios and one (1), two (2) and three (3) bedroom apartments, with a parking structure (generally, the "Project"); and

WHEREAS, the proposal of the Developer is to undertake the following in connection with the Project: (i) undertake and pay for the costs of all plans and specifications, professional fees and apply for all required plan review approvals and permits; and (ii) commence, undertake and complete the Project in compliance with the approved plans and permits and city codes and other applicable Legal Requirements as defined below; and

WHEREAS, the Developer submitted a preliminary project plan, including preliminary construction drawings, a proforma contractor estimate of the construction costs (completed by a union or prevailing wage contractor), a proforma project budget and general description of the scope of the Project (collectively, the "Preliminary Project Plan") (Exhibit C), and the Project Timeline, as defined below, to the City to provide the City with details of the Project; and

WHEREAS, the Preliminary Project Plan is consistent with the mutual goals of the Developer and the City; and

WHEREAS, upon substantial completion, the Project shall represent a total capital investment on the part of the Developer of approximately $70,000,000.00 as set forth in the Preliminary Project Plan; and

WHEREAS, the Developer and Guarantor have provided the City with financial statements which indicate that the Developer and Guarantor, as reasonably determined by the City, have the financial resources, including net liquid assets, necessary to fulfill the Developer's obligations set forth in this Agreement; and

WHEREAS, the Project is located within TIF District No. 1 and TIF District No. 6; and

WHEREAS, the City intends to provide incentives to the Developer which necessitates a substantial amendment to TIF District No. 1 and/or TIF District No. 6, creating a new TIF district that will include the Property (referred to below as the "Redevelopment Project Area" or the "TIF District"); and

WHEREAS, the City is authorized under the TIF Act to create redevelopment plans and redevelopment project areas and enter into redevelopment agreements and to reimburse developers who incur redevelopment project costs authorized by a redevelopment agreement and which are further designated by law as eligible costs as defined by the TIF Act; and

WHEREAS, in order to induce the Developer to complete the Project, the Corporate Authorities have determined that it is in the best interests of the City and the health, safety, morals and welfare of the residents of the City, on the terms and subject to the conditions set forth in this Agreement, to establish a new redevelopment plan (the "Redevelopment Plan" or the "TIF Redevelopment Plan") and a new redevelopment project area that will include the Property (the "Redevelopment Project Area" or the "TIF District"), a depiction of which is attached hereto as

Exhibit D and to reimburse the Developer for eligible Redevelopment Project Costs (as defined below) in an amount not to exceed the eligible Redevelopment Project Costs incurred by the Developer at a rate of ninety percent (90%) of the Incremental Taxes, as hereinafter defined, generated by the Project beginning the year after the Property is first re-assessed after the Certificate of Project Completion is issued and continue for thirteen (13) years, and thereafter at a rate of eighty percent (80%) of the Incremental Taxes generated by the Project for the remaining ten (10) years of the TIF District or until the expiration of the term of the TIF District; and

WHEREAS, the Parties desire that all subsidies paid pursuant to the TIF Act under this Agreement shall be paid in a "pay-as-you-go" manner; and

WHEREAS, the City has further authorized expenditures and disbursements as further set forth in the Agreement in order to induce the Developer to complete the Project; and

WHEREAS, the Corporate Authorities have determined that the rights and obligations of the City and Developer as described herein and the completion of the Project by the Developer pursuant to this Agreement are in the best interests of the City and the health, safety, morals and welfare of its residents and taxpayers and will be in furtherance of the Redevelopment Plan, thereby providing for economic development, enhancing the tax base of the City and other taxing districts and adding to the welfare and prosperity of the City and its inhabitants; and

WHEREAS, the Parties acknowledge that this Agreement is conditioned on the City establishing a new TIF District;

NOW, THEREFORE, the parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

Section 1. Incorporation of Recitals.

The recitals contained in the Preambles to this Agreement are true and correct and are hereby incorporated into this Agreement as though they were fully set forth in this Section 1.

Section 2. Development of the Project and Disbursements from the City to Developer.

(a) Attached hereto are the Preliminary Project Plan and the Project Timeline. The Developer agrees to and shall commence, undertake, and complete the Project substantially in accordance with the Preliminary Project Plan and Project Timeline. Subject to the prior consent and approval of the City, which shall not be unreasonably conditioned, delayed, or denied, the Developer may: (i) modify the Preliminary Project Plan to the extent such amendments do not constitute material changes to the scope, design, or overall nature or intent of the Project; and (ii) the Project Timeline to the extent that delays occur that are not within the reasonable control of the Developer.

(b) The Developer has an opportunity to revitalize the Riverfront Area by developing 246 market rate residential units. The cost of the Project is estimated to be approximately $70,000,000. Such costs shall be funded in their entirety by Developer equity, the Forgivable Loan, as defined herein, the Grant, as defined herein, and third-party lender financing. Subject to the requirements set forth herein, certain Redevelopment Project Costs incurred by the Developer shall be reimbursed by the City through the TIF Payments, as defined herein.

(d) Prior to commencing construction, the Developer shall apply to the City for necessary building permits for the improvements to be made imminently by the Developer by submitting all plans and specifications required pursuant to applicable provisions of the City Code of Ordinances (the "City Code"). The Developer shall be responsible for and promptly pay when due all building permit fees. The City shall review the building permit application as provided in the City Code. The plans and specifications and all other required submissions shall also comply with all applicable federal, state, county, municipal or administrative laws, ordinances, rules, regulations, codes and orders relating in any way to the development of the Project (collectively, the "Legal Requirements").

(e) The Developer shall make all necessary petitions (including paying all required fees, costs and expenses) for any and all land use adjustments and/or entitlements required for the successful completion of the Project, including, without limitation, the Conditional Use Planned Development Petition, defined below, and the other land use and zoning entitlements described in Section 7 of this Agreement (collectively, the "Land Use Petition(s)"). Upon receipt of any Land Use Petition the City shall process and act on the same diligently, continuously, and in good faith, in accordance with all applicable laws, including and without limitation, the City Code. Nothing set forth herein provides the Developer with a guarantee of the successful approval of any Land Use Petition applied for regarding the Project.

(f) The Developer shall be authorized, upon the Effective Date, to apply for all applicable building permits and to submit all applicable Land Use Petitions pertaining to the Property. Prior to commencing construction on the Property, the Developer shall contract with a contractor that is approved by the City in the City's reasonable discretion. Upon the Developer contracting with a Contractor approved by the City, the City shall provide the Developer with written authorization to commence construction on the Property.

(g) Subject to the terms and conditions of this Agreement, the City shall provide the following incentives to the Developer provided the Developer is not in default (uncured) of this Agreement:

(i) a forgivable loan from the City to the Developer in the amount of $963,000.00 (the "Forgivable Loan") to assist the Developer in paying for costs incurred by the Developer in connection with the Project before the commencement of construction, including, without limitation, the costs of services performed by, without limitation, architects, engineers, surveyors, planners, attorneys, financial consultants, environmental consultants, contractors, and project managers, as well as overhead costs, financing costs, and other costs and fees directly related to the Project and consistent with the Preliminary Project Plan (collectively, the "Pre-Construction Costs"). Draws on the Forgivable Loan shall be disbursed through a joint-order escrow account (the "Escrow Account") established with Chicago Title and Trust (the "Escrowee") in nine (9) draws, with no more than one (1) draw occurring in a single month. The Developer shall be eligible to receive the first two (2) draws of the Forgivable Loan, subject to the provisions set forth in this paragraph, upon and after the Effective Date of this Agreement. The total aggregate amount of the first two (2) draws shall not exceed $214,000.00. The Developer shall only be eligible to receive the remaining seven (7) draws, subject to the provisions of this paragraph, upon and after the City's approval of the Entitlements and Preliminary Plat and Plan, as defined herein. The City shall direct the Escrowee to disburse funds from the Escrow Account within thirty (30) days of the Developer

providing sufficient proof, such as invoices, receipts, statements, executed proposals, and other customary records of the applicable Pre-Construction Costs, as determined by the City in its reasonable judgment, of the Pre-Construction Costs actually incurred by the Developer. The Developer shall provide such proof to the City by no later than the last day of each month preceding the requested draw on the Forgivable Loan. To facilitate the draws on the Forgivable Loan through the Escrow Account, the Parties shall execute escrow instructions consistent with the requirements set forth in this section. The Developer shall be responsible for covering any fees charged by Escrowee associated with the Escrow Account. The Forgivable Loan will bear interest at a rate of 5% annually, based on a 360-day year consisting of 12, 30-day months. The actual amount disbursed on the Forgivable Loan shall be forgiven upon: (a) the Developer's receipt of a Certificate of Project Completion, as hereinafter defined; (b) termination of this Agreement pursuant to Sections 2(j) and 4 of this Agreement on the ground that the Redevelopment Plan and the TIF District were not established by March 1, 2022; and (c) termination of this Agreement pursuant to Section 7(f) of this Agreement on the ground that the Land Use Petitions(s), including the Land Use Petitions for Final Plat and Plan, were not approved by May 15, 2022. In the event this Agreement is terminated pursuant to Sections 2(j) and 4 or Section 7(f) of this Agreement and the actual amount of the Forgivable Loan disbursed to Developer is forgiven, the City shall take ownership of all plans, designs, and other work product (excluding attorney work product and attorney-client privileged communications) paid for with funds disbursed from the Forgivable Loan.

Notwithstanding the foregoing, if the Developer has not closed on the Construction Loan for the Project, as defined herein, by September 15, 2022, subject to Force Majeure, as evidenced by written proof submitted to the City, the City shall provide the Developer with notice that the Developer has sixty (60) days to close on the Construction Loan (the "Construction Loan Cure Period") as evidenced by written proof submitted to the City. If the Developer does not close on the Construction Loan by the end of the Construction Loan Cure Period, as evidenced by written proof submitted to the City, the Developer shall repay an amount equal to the amount of the Forgivable Loan actually disbursed through the end of the Construction Loan Cure Period, plus interest accrued thereon, to the City within thirty (30) days after the last day of the Construction Loan Cure Period and the City shall take ownership of all plans, designs, and other work product (excluding attorney work product and attorney-client privileged communications) paid for with funds disbursed from the Forgivable Loan..

If the Developer has not completed the Project pursuant to the terms of this Agreement by September 15, 2024, subject to Force Majeure, as evidenced by Developer's receipt of a Certificate of Project Completion, the City shall provide the Developer with notice that the Developer has sixty (60) days to complete the Project (the "Forgivable Loan Cure Period") as evidenced by Developer's receipt of a Certificate of Project Completion. If the Developer does not complete the Project by the end of the Forgivable Loan Cure Period, as evidenced by Developer's receipt of a Certificate of Project Completion, the Developer shall repay an amount equal to the amount of the Forgivable Loan actually disbursed through the end of the Forgivable Loan Cure Period, plus interest accrued thereon, to the City within thirty (30) days after the last day of the Forgivable Loan Cure Period the City shall take ownership of all plans, designs, and other work product (excluding attorney work product and attorney-client privileged communications) paid for with funds disbursed from the Forgivable Loan..

(ii) a grant from the City to the Developer in the amount of $5,877,500.00 (the "Grant"). The City shall begin disbursing the Grant after the Developer has contributed an amount of equity to the Project that satisfies the requirements of the Developer's construction lender (the "Construction Lender") to issue a construction loan for the Project (the "Construction Loan"), as evidenced by a written acknowledgement by the Construction Lender. Draws on the Grant shall be disbursed through a joint-order escrow account (the "Grant Escrow Account") established with the Escrowee. Developer shall use commercially reasonable efforts to cause draws on the Grant to be pari-passu, on a pro-rata basis, with the Construction Loan. The City shall direct the Escrowee to disburse funds from the Grant Escrow Account in coordination with disbursements of the Construction Loan by the Construction Lender in accordance with a process and using documentation mutually acceptable to the City, the Developer, and the Construction Lender. The Developer shall provide such documentation and a request for a draw on the Grant to the City by no later than ten (10) days before the requested draw date on the Grant. To facilitate the draws on the Grant through the Grant Escrow Account, the Parties shall execute escrow instructions consistent with the requirements set forth in this section. The Developer shall be responsible for covering any fees charged by Escrowee associated with the Grant Escrow Account.

Notwithstanding the foregoing, if the Developer has not completed the Project pursuant to the terms of this Agreement by September 15, 2024, subject to Force Majeure, as evidenced by Developer's receipt of a Certificate of Project Completion, the City shall provide the Developer with notice that the Developer has sixty (60) days to complete the Project (the "Grant Cure Period") as evidenced by Developer's receipt of a Certificate of Project Completion. If the Developer does not complete the Project by the end of the Grant Cure Period, as evidenced by Developer's receipt of a Certificate of Project Completion, the Developer shall repay an amount equal to the amount of the Grant actually disbursed through the end of the Grant Cure Period, to the City within thirty (30) days after the last day of the Grant Cure Period the City shall take ownership of all plans, designs, and other work product (excluding attorney work product and attorney-client privileged communications) paid for with funds disbursed from the Grant.

(iii) the TIF Payments set forth in Section 3, below.

(j) The Parties agree that in the event a TIF District, as contemplated above is not established pursuant to the terms of this Agreement by March 1, 2022: (i) this Agreement shall terminate and be null and void with the exception of Section 11, Section 19, and Section 28 which shall survive for a period of three hundred sixty-five (365) days and at such time the entire Agreement shall be deemed null and void; and (ii) the Forgivable Loan shall be forgiven and Developer shall have no obligation to repay any amount of the Forgivable Loan disbursed to Developer. In the event this Agreement is terminated pursuant this Section 2(j) and the amount of the Forgivable Loan disbursed to Developer is forgiven, the City shall take ownership of all plans, designs, and other work product (excluding attorney work product and attorney-client privileged communications) paid for with funds disbursed from the Forgivable Loan.

Section 3. TIF Payments to Developer.

(a) The City, provided that no event of (uncured) default by the Developer under this Agreement shall have occurred and be continuing, shall reimburse the Developer for the

Redevelopment Project Costs incurred by the Developer set forth in Exhibit E (the "Eligible Redevelopment Project Cost Schedule"). The City agrees to provide the Developer, in an amount not to exceed the Developer's eligible Redevelopment Project Costs, with ninety percent (90%) of the Incremental Taxes generated by the Project and collected each year, which payment stream shall commence on the year after the Property is first re-assessed after the Certificate of Project Completion is issued and continue for thirteen (13) years, and thereafter at a rate of eighty percent (80%) of the Incremental Taxes generated by the Project for the remaining ten (10) years of the TIF District or until the expiration of the term of the TIF District (each and all such payments, generally, "TIF Payment(s)"). No TIF Payment shall be made until after the Completion Date, as hereinafter defined. The City shall retain the residual Incremental Taxes generated by the Project for use in accordance with the TIF Act. All payments made to the Developer hereunder shall be paid in a "pay-as-you- go" manner.

(b) The TIF Payments provided by the City, as described herein and subject to the terms and conditions of this Agreement, shall be disbursed to Developer each year within thirty (30) days following the receipt from the County of property taxes and the receipt from the Developer of a written request for reimbursement of Redevelopment Project Costs, a receipt of paid taxes for the Property, and a copy of the annual affidavit (the "Annual Affidavit") in substantially the form as set forth in Exhibit F. These Redevelopment Project Costs shall include those expenses described in Exhibit E. Developer shall submit to the City a written request for reimbursement of the Redevelopment Project Costs along with the Annual Affidavit and documentation of the property tax payment by October 1st of each year. The City shall only be obliged to reimburse Developer for Redevelopment Project Costs actually incurred.

(c) The Developer shall provide proof of the Redevelopment Project Costs within ninety (90) days after receipt of a Certificate of Completion. In connection with the TIF Payments, the Developer shall provide such evidence as the City shall reasonably request to establish that the Developer has incurred the costs for the work identified in Exhibit E and has completed or caused to be completed the work in a lien free manner. Such evidence shall include but not be limited to bills, paid receipts, contracts, invoices, lien waivers or other similar evidence. All bills and receipts shall contain the date of service, type of service, location of service, amount paid, name/address/telephone number of the service provider and other information as necessary to establish the identity of the provider, type of service and amount invoiced / paid.

(d) "Redevelopment Project Costs" for purposes of this Agreement shall mean and include all costs defined as "redevelopment project costs" in Section 11-74.4-3(q) of the TIF Act which are eligible for reimbursement under the TIF Act and this Agreement.

(e) Notwithstanding anything to the contrary contained herein, Developer shall have the right to designate a different entity to whom payments hereunder shall be made subject to the terms of Section 17 below. Developer's initial designated entity is DAC Developments, LLC. The City shall be relieved of any liability and held harmless, defended and indemnified by the Developer from any cost, expense or liability in the event a designation made hereunder results in a dispute between any designee and designor.

(f) THE CITY'S OBLIGATION TO PAY THE DEVELOPER THE TAX INCREMENT AMOUNTS (TIF PAYMENTS) AND OTHER INCENTIVES TO BE PROVIDED UNDER THIS AGREEMENT IS A LIMITED OBLIGATION PAYABLE SOLELY FROM INCREMENTAL

TAXES DEPOSITED IN THE SPECIAL TAX ALLOCATION FUND OF THE CITY CREATED WITH RESPECT TO THE PROJECT (THE "STAF"), AND SHALL NOT BE A GENERAL OBLIGATION OF THE CITY OR SECURED BY THE FULL FAITH AND CREDIT OF THE CITY. INSUFFICIENCY OF THE STAF TO PAY THE INCENTIVES WHEN DUE SHALL NOT BE AN EVENT OF DEFAULT THEREON, AND NO HOLDER OF THE RIGHT TO RECEIVE ANY INCENTIVE SHALL HAVE ANY RECOURSE WHATSOEVER AGAINST THE CITY IN THE EVENT THAT THERE ARE INSUFFICIENT INCREMENTAL TAXES. THE AMOUNT OF THE TIF PAYMENTS SHALL BE LIMITED TO AND NOT TO EXCEED THE ACTUAL REDEVELOPMENT PROJECT COSTS INCURRED AND EVIDENCED BY THE DEVELOPER TO THE CITY. "Incremental Taxes" shall mean the amount in the STAF equal to the amount of ad valorem taxes, if any, paid in respect of the TIF District and improvements therein which is attributable to the increase in the equalized assessed value of the TIF District and its improvements over the initial equalized assessed value of the TIF District, as calculated in accordance with the TIF Act.

(g) Within fifteen (15) business days after written request from the Developer, which shall minimally include a certificate of occupancy from the City and evidence that the Developer has completed each item listed on Exhibit G (the "Project Checklist"), and provided that Developer has not received any notice of default under this Agreement or notice of non-compliance with the City Code with respect to Developer's construction obligations, any of which have not been cured, and after the City has confirmed that the proposed improvements on the Property have been constructed in compliance with the City Code and this Agreement, the City shall deliver a certificate of completion and satisfaction of all construction terms, covenants and conditions contained in this Agreement (the "Certificate of Project Completion") or, if not complete or satisfied, a written statement as to what deficiencies exist. The date the Certificate of Project Completion is issued shall be the "Completion Date." The City shall issue the Certificate of Project Completion promptly upon satisfaction of the requirements set forth in this paragraph and shall not unreasonably condition, delay, or withhold the issuance of a Certificate of Project Completion.

(h) Notwithstanding the foregoing provisions of this Section, in the event the TIF Redevelopment Plan and TIF District are not created the City shall not be obligated to make any TIF Payments or to provide the Grant.

Section 4. Creation of a Redevelopment Plan and Redevelopment Project Area.

The City, as soon as reasonably practicable after the Effective Date, shall commence procedures to establish the TIF Redevelopment Plan and the TIF District and to approve tax increment financing for the purpose of implementing the TIF Redevelopment Plan for the TIF District in accordance with the requirements of the TIF Act and subject to the terms and conditions of this Agreement, and shall thereafter continuously and diligently pursue such procedures to establish and approve the foregoing. The City's obligations under this Agreement shall cease in the event the TIF Act is abolished, repealed or revoked. In the event the TIF Act is amended or modified (the "Legislative Changes"), provided such Legislative Changes would require the amendment or modification of the terms of this Agreement, the City and the Developer will mutually agree on amendments to this Agreement required by the Legislative Changes. In the event the TIF Redevelopment Plan and TIF District are not established by March 1, 2022, (1) the City shall not be deemed to be in default of this Agreement; (2) this Agreement shall terminate and be deemed null and void with the exception of Section 11, Section 19, and Section 28 which shall survive for a period

of three hundred sixty-five (365) days and at such time the entire Agreement shall be deemed null and void; and (3) the Forgivable Loan shall be forgiven and Developer shall have no obligation to repay any amount of the Forgivable Loan disbursed to Developer. In the event this Agreement is terminated pursuant this Section 4 and the amount of the Forgivable Loan disbursed to Developer is forgiven, the City shall take ownership of all plans, designs, and other work product (excluding attorney work product and attorney-client privileged communications) paid for with funds disbursed from the Forgivable Loan.

Section 5. Term; Time of the Essence.

The term of this Agreement, unless earlier terminated pursuant to the terms of this Agreement, shall commence on the Effective Date and shall expire fifteen (15) years thereafter. Time is of the essence in the performance of all the terms of this Agreement. The Parties agree to hold monthly meetings to discuss the status of the Project.

Section 6. Timing of Project.

The Project shall be completed in accordance with the milestones set forth in this Agreement and in the Project Timeline attached to this Agreement as Exhibit H (the "Project Timeline"). Failure by the Developer to satisfy the Project milestones set forth in the Project Timeline, subject to Force Majeure, as hereinafter defined, and subject to any applicable cure period set forth in this Agreement, shall be an event of default of this Agreement. Notwithstanding any other provision of this Agreement, in the event that: (a) the City Council approves the Entitlements and Preliminary Plat and Plan after November 9, 2021, or the Land Use Petitions for Final Plat and Plan after May 15, 2022 (and, in the case of the Land Use Petitions for Final Plat and Plan, if Developer does not elect to terminate this Agreement pursuant to Section 7(f)), Developer's time to complete its subsequent Project milestones as set forth in the Project Timeline and elsewhere in this Agreement shall be extended by the number of days by which the City's performance is delayed; and (b) Developer fails to complete a Project milestone set forth in the Project Timeline or elsewhere in this Agreement that is subject to a cure period, and Developer subsequently cures such failure before the expiration of the applicable cure period, the City's time to complete its subsequent Project milestones as set forth in the Project Timeline and elsewhere in this Agreement shall be extended by the number of days by which the Developer's performance is delayed. Developer shall diligently undertake the work to complete the Project in accordance with the Preliminary Project Plan, the City Code, all Legal Requirements and in an otherwise legal and lien free manner until completion. The "completion of the Project" or any derivative terms carrying equal means shall be evidenced by the City issuing the Developer a Certificate of Project Completion.

Section 7. Land Use.

(a) Entitlements.

In accordance with all applicable provisions of the City of Aurora Zoning Ordinance (the "Zoning Ordinance"), Developer shall submit the Land Use Petitions, including a conditional use planned development petition (the "Conditional Use Planned Development Petition"). The initial set of Land Use Petitions shall include the Conditional Use Planned Development Petition, any necessary rezoning, any necessary variances, and the associated preliminary plan and preliminary plat for the Property and shall be submitted to the City by no later than August 16, 2021 (collectively, the

"Entitlements and Preliminary Plat and Plan"). The City shall have until November 9, 2021 to review, provide feedback and revisions, and obtain City Council approval regarding the same. If the Entitlements and Preliminary Plat and Plan are approved by the City Council, the Developer shall provide the City with the final Conditional Use Planned Development Petition, final plan and final plat for the Property (the "Land Use Petitions for Final Plat and Plan") by no later than March 15, 2022. Provided the Developer is not then in default of this Agreement and submits the Land Use Petitions for Final Plat and Plan in accordance with the Zoning Ordinance and all relevant Legal Requirements and substantially consistent with the Entitlements and Preliminary Plat and Plan approved by the City, the City, including all relevant departments and agencies, shall not file an objection to the Land Use Petitions for Final Plat and Plan, failing which the Developer may terminate this Agreement. The City shall obtain City Council approval of the Land Use Petitions for Final Plat and Plan by May 15, 2022. Notwithstanding the foregoing and subject to Developer's rights in Section 7(f), the City Council's failure to approve the Land Use Petitions for the Final Plat and Plan shall not be deemed an event of default by the City.

(c) Zoning Designation.

Developer anticipates requesting the F Downtown Fringe District with a Conditional Use Planned Development zoning classifications for the Property.

(d) Request for Variances.

The Developer anticipates requesting the following relief from the following City Code and Zoning Ordinance requirements for the Project:

(i) Certain building, dwelling, and structure standards (City of Aurora Zoning Ordinance, Section 49-105.1 - Building, Dwelling And Structure Standards).

(ii) The total number of parking spaces required and the need for structured parking, parking integration with the building, and/or enclosed or covered parking spaces (City of Aurora Zoning Ordinance, Section 49-108.8(d)(10) & Section 49-105.13 - Off-Street Parking And Loading).

(iii) Certain requirements set forth for residential developments within the F Downtown Fringe District (City of Aurora Zoning Ordinance, Section 49-108.8(d)(1)e. - Residential).

(iv) Certain setback requirements for properties located in the F Downtown Fringe District (City of Aurora Zoning Ordinance, Section 49-108.8(d)(12) – Setback).

(e) The Parties acknowledge that parking is an ongoing and evolving concern within the Riverfront Area. The City shall cooperate with the Developer to help the Developer identify, develop, and implement parking solutions for the Project's residents consistent with the needs of the Project and the needs and requirements of the City.

(f) Provided the Developer is not then in default of this Agreement and submits all necessary application materials, including the Land Use Petitions for Final Plat and Plan, in compliance with all relevant Legal Requirements and substantially consistent with the Entitlements

and Preliminary Plat and Plan approved by the City, in the event that the City Council does not approve the Land Use Petition(s), specifically the Land Use Petitions for Final Plat and Plan, by May 15, 2022, subject to force majeure: (1) the Developer shall have the right to terminate this Agreement by providing written notice to the City, after which this Agreement shall be null and void with the exception of Section 11, Section 19, and Section 28, which shall survive for a period of three hundred sixty-five (365) days, after which the entire Agreement shall be null and void; and (2) the Forgivable Loan shall be forgiven and the Developer shall have no obligation to repay any amount of the Forgivable Loan disbursed to the Developer. In the event this Agreement is terminated pursuant this Section 7(f) and the amount of the Forgivable Loan disbursed to Developer is forgiven, the City shall take ownership of all plans, designs, and other work product (excluding attorney work product and attorney-client privileged communications) paid for with funds disbursed from the Forgivable Loan. Prior to the Developer executing its right to terminate this Agreement pursuant to this Section 7(f), the Developer shall provide the City with written notice of its intent to terminate this Agreement and that the City shall have sixty (60) days to obtain City Council approval of the Land Use Petitions for Final Plan and Final Plat, failure of which the Developer may proceed to terminate this Agreement.

Section 8. No Liability of City to Others for Developer's Expenses.

Other than the Forgivable Loan, the Grant, and the TIF payments as set forth in this Agreement, the City shall have no obligations to pay costs of the Project or to make any payments to any person other than the Developer, nor shall the City be obligated to pay any contractor, subcontractor, mechanic, or materialman providing services or materials to the Developer for the development of the Project.

Section 9. Representations and Warranties.

(a) Developer’s Representations and Warranties.

The Developer agrees, represents and warrants to the City as follows:

(i) Existence and Authority of the Developer.

The Developer and Guarantor are entities authorized to do business under the laws of the State of Illinois, and are authorized to and have the power to enter into, and by proper action have been duly authorized to execute, deliver and perform, this Agreement. The Developer and the Guarantor are solvent, able to pay their debts as they mature and financially able to perform all the terms of this Agreement. To Developer's and Guarantor’ knowledge, there are no actions at law or similar proceedings which are pending or threatened against Developer or Guarantor which would result in any material and adverse change to Developer's or Guarantor’ financial condition, or which would materially and adversely affect the level of Developer's or Guarantor’ assets as of the date of this Agreement or that would materially and adversely affect the ability of Developer or Guarantor to proceed with the construction and development of the Project.

(ii) No Conflict by Developer.

Neither the execution and delivery of this Agreement by Developer, the consummation of the transactions contemplated hereby by Developer, nor the fulfillment of or compliance

with the terms and conditions of this Agreement by Developer conflicts with or will result in a breach of any of the terms, conditions or provisions of any offerings or disclosure statement made or to be made on behalf of Developer (with Developer's prior written approval), any organizational documents, any restriction, agreement or instrument to which Developer or any of its managers, members or venturers is now a party or by which Developer or any of its managers, members or venturers is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any prohibited lien, charge or encumbrance whatsoever upon any of the assets or rights of Developer, any related party or any of its managers, members or venturers under the terms of any instrument or agreement to which Developer, any related party or any of its managers, members or venturers is now a party or by which Developer, any related party or any of its managers, members or venturers is bound.

(iii) Adequate Resources of Developer.

The Developer and/or the Guarantor have sufficient financial and economic resources, including net liquid assets, to implement and complete the Developer's obligations contained in this Agreement, including, but not limited to, the repayment of the Forgivable Loan and the Grant if such obligations become due.

(iv) Experience of Developer.

The Developer, and its respective principals, are skilled in the development of real property and have received input from other experts and consultants regarding the construction of this Project.

(v) Payment of Real Estate Taxes; Assessed Valuation Challenges.

Developer and successor owners agree to pay all general and special real estate taxes levied during their respective period of ownership against their respective interest in the Property and/or the Project on or prior to the date same is due and said taxes shall not become delinquent. Developer and successor owners shall deliver evidence of payment of such taxes to the City upon request. The obligations of the Developer under this subsection of the Agreement shall survive and remain in full force and effect after the issuance of the Certificate of Project Completion by the City to the Developer, and Developer's failure to adhere to the same shall be deemed an Event of Default under this Agreement. The Developer and/or its respective owners and successors shall not challenge, contest or seek a reduction in the assessed valuation of the Property during the term of this Agreement.

(vi) Litigation.

To the best of Developer's knowledge, there is no litigation, proceeding or investigation pending or threatened against Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by Developer of the terms and provisions of this Agreement.

(ix) Compliance with Legal Requirements.

To the best of Developer's knowledge, Developer is in compliance in all material respects with the Legal Requirements.

(b) Representations and Warranties of the City.

The City represents, warrants and agrees to the Developer as follows:

(i) Existence.

The City is an Illinois home rule municipal corporation duly organized and validly existing under the laws of the State of Illinois and has all requisite corporate power and authority to enter into this Agreement.

(ii) Authority.

The execution, delivery and the performance of this Agreement and the consummation by the City of the transactions provided for herein and the compliance with the provisions of this Agreement (1) have been duly authorized by all necessary corporate action on the part of the City; (2) require no other consents, approvals or authorizations on the part of the City in connection with the City's execution and delivery of this Agreement; and (3) shall not, by lapse of time, giving of notice or otherwise result in any breach of any term, condition or provision of any indenture, agreement or other instrument to which the City is subject.

Section 10. Guaranty.

(a) Guaranty.

Guarantor hereby absolutely, irrevocably, and unconditionally guaranties to the benefit of the City: (a) the full and prompt payment of each and all payments required by the Developer under this Agreement, when the same shall become due and payable in accordance with their terms; and (b) the full and timely performance and discharge of all the obligations of the Developer under this Agreement, (collectively, the "Guaranty").

(b) City's Right Against Guarantor.

This Guaranty shall constitute a guaranty of payment and performance when due, and not of collection. Guarantor specifically agrees that, in the event of a failure by the Developer to timely pay or perform any of its obligations, and the failure by Developer to cure same after notice or demand has been given if required under this Agreement, the City shall have the right from time to time to proceed first and directly against Guarantor under this Guaranty, and without proceeding against the Developer or exhausting any other remedies against the Developer. Without limiting the foregoing, Guarantor agrees that it shall not be necessary, and Guarantor shall not have the right, and specifically waives any right it may have, to require, as a condition of enforcing this Guaranty, that the City: (a) file suit or proceed to obtain a personal judgment against the Developer or any other person that may be liable for the obligations or any part of the obligations; (b) make any other effort to obtain payment or performance of the obligations from Developer other than providing Developer with any notice of such nonpayment or nonperformance as may be required under the terms of the Agreement; (c)

foreclose against or seek to realize upon any security for the outstanding obligations; or (d) exercise any other right or remedy that the City is or may be entitled in connection with the outstanding obligations or any security therefor or any other guarantee thereof. Notwithstanding the right of City to proceed immediately and directly against Guarantor, the City shall not be entitled to more than a single full performance of the obligations regarding any breach or non-performance thereof. Subject to the foregoing, at the City's election, which may be made in its sole judgement, the City may, following demand upon Guarantor hereunder, perform or cause to be performed the outstanding obligations on the Developer's behalf. The City shall not be obligated to undertake any of the foregoing actions, and shall not incur any liability to Guarantor, the Developer or any other person because of taking or not taking any of the foregoing actions. No such actions or inactions by the City shall release or limit the liability of Guarantor hereunder, and shall not serve as a waiver of any of the rights of the City pursuant to this Section of this Agreement. The liability of Guarantor shall be effective, and the obligations shall immediately be paid and performed, only upon any failure by Developer in the timely payment or performance of any obligation and the giving of such notice or demand, if any, to Developer as may be required under this Agreement, and the failure to cure the same. The Guarantor shall maintain sufficient funds and remain free of any conflicting obligations to prohibit the Guarantor from discharging its obligations under this Agreement. Guarantor specifically reaffirms the representations and warranties of the Developer as set forth in Section 10 of this Agreement.

(c) Guaranty Absolute and Unconditional.

The obligations of Guarantor hereunder are absolute, irrevocable and unconditional and shall remain in full force and effect until the Developer's obligations have been fully discharged in accordance with their respective terms and not subject to any counterclaim, set-off, deduction or defense (other than full and strict compliance with, or release, discharge or satisfaction of, the obligations or any other defense that Developer may have) based on any claim that Guarantor may have against the Developer, the City, or any other person. Without limiting the foregoing, the obligations of Guarantor hereunder shall not be released, discharged or in any way modified. Notwithstanding any provision to the contrary, nothing in this Section limits or waives the City's rights under this Agreement.

Section 11. Indemnification, Hold Harmless and Release Provisions.

(a) Release.

The Developer releases the City, its governing body members, officers, agents, including independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purposes of this Section, collectively the "Indemnified Parties") from liability for, and covenants and agrees that the Indemnified Parties shall not be liable for, and agrees to defend, indemnify and hold harmless the Indemnified Parties against, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Project or the Property or arising under this Agreement or actions in furtherance thereof, to the extent not attributable to the gross negligence or willful misconduct of the Indemnified Parties.

(b) Indemnification.

Developer agrees to defend, protect, and indemnify the Indemnified Parties, agrees to hold the

aforesaid harmless from any claims, demands, suits, costs, expenses (including reasonable attorney's fees), actions or other proceedings whatsoever by any person or entity whatsoever to the extent arising or purportedly arising from the negligent actions or inactions of Developer (or other Persons acting on its behalf or under their direction or control) under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Project; provided, that this indemnification shall not apply to the warranties made or obligations undertaken by the City in this Agreement or to the extent that any such claims, demands, suits, costs, expenses (including reasonable attorneys' fees), actions or other proceedings arise or purportedly arise from the gross negligence or willful misconduct of the Indemnified Parties. The provisions of this Section shall be applicable only prior to the Completion Date.

(c) Environmental Disclaimer.

The City makes no warranties or representations regarding, nor does it indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Property of any toxic or hazardous substances of wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, or any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§ 9601-9657, as amended) (collectively, the "Hazardous Substances"). The foregoing disclaimer relates to any Hazardous Substance allegedly generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on or in the vicinity of the Property, as well as any activity claimed to have been undertaken on or in the vicinity of the Property, that would cause or contribute to causing (1) the Property to become a treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. §6901 et seq., or any similar State law or local ordinance, (2) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants, from the Property, within the meaning of, or otherwise bring the Property within the ambit of, CERCLA, or any similar State law or local ordinance, or (3) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq., or any similar State law or local ordinance. Further, the City makes no warranties or representations regarding, nor does the City indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Project, or anywhere within the Property, of any substances or conditions in or on the Property, that may support a claim or cause of action under RCRA, CERCLA, or any other federal, State or local environmental statutes, regulations, ordinances or other environmental regulatory requirements. The City makes no representations or warranties regarding the existence of any above ground or underground tanks in or about the Property, or whether any above or underground tanks have been located under, in or about the Property have subsequently been removed or filled.

(d) Waiver.

The Developer waives any claims against the Indemnified Parties for indemnification, contribution, reimbursement or other payments arising under federal, State and common law or relating to the environmental condition of the land which is part of the Property.

(e) No Personal Liability.

No liability, right or claim at law or in equity shall attach to or shall be incurred by the City's Mayor, aldermen, officers, officials, attorneys, agents and/or employees in their personal capacities, and any such rights or claims of the Developer against the City's Mayor, aldermen, officers, officials, attorneys, agents and/or employees in their personal capacities are hereby expressly waived and released as a condition of and as consideration for the execution of the Agreement by the City.

Section 12. Insurance.

Developer shall procure and maintain at Developer's sole cost and expense, or cause to be provided and maintained, until the termination or expiration of this Agreement, the types and limits of insurance specified below, covering all operations under the Agreement, whether performed by Developer or by Developer's agent:

(a) Policies required.

From the commencement of any construction of the Project until the termination of this Agreement, Developer shall procure and maintain:

(i) Worker's Compensation Insurance, in accordance with the laws of the State of Illinois, with statutory limits covering all employees providing services under this Agreement and Employer's Liability Insurance with limits not less than $1,000,000.00 for each accident or illness. The City is to be named as an additional insured on a primary, non-contributory basis with regard to the Employer's Liability Insurance.

(ii) Commercial General Liability Insurance with not less than $2,000,000.00 combined single limits per occurrence and aggregate for bodily injury, property damage, and personal injury, including, but not limited to, coverage for premises/operations, products/completed operations, broad form property damage, independent contractors, contractual liability, and explosion/collapse/underground hazards for occurrences on the Property. The City is to be named as an additional insured on a primary, noncontributory basis.

(iii) Commercial Automobile Liability Insurance covering all owned, non-owned, and hired vehicles, including the loading and unloading thereof, with limits not less than $1,000,000.00 combined single limit per occurrence for bodily injury and property damage for occurrences relating to the Property or the Project. The City is to be named as an additional insured on a primary, non-contributory basis.

(iv) 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 $1,000,000.00, including contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Project.

(v) When Developer undertakes any construction on the Property, Developer must provide or cause to be provided All Risk/Builders Risk Insurance at replacement costs for materials, supplies, equipment, machinery and fixtures that are or will be part of the Project. The City is to be named as an additional insured and loss payee if applicable.

(vi) Developer shall require all independent contractors and subcontractors to procure and maintain insurance as required and submit documentation of the maintenance of such insurance from time to time as required herein.

(b) General Insurance Requirements.

Unless otherwise provided above, all insurance policies required pursuant to this Agreement shall:

(i) Provide that the insurance policy may not be suspended, voided, canceled, non-renewed, or reduced in coverage or in limits without thirty (30) days' prior written notice by certified mail, return receipt requested, to the City;

(ii) Be issued by a company or companies authorized to do business in the State of Illinois with a Best's rating of no less than A:VII;

(iii) Waive all rights of subrogation of insurers against the City, its employees, elected officials, and agents; and

(iv) Specifically name the City as a named insured.

(c) Certificates.

Within ten (10) days of the Effective Date (as defined below) and by December 31 of each calendar year thereafter until the Completion Date, Developer shall furnish the City with a certificate(s) of insurance effecting coverage as required under this Section. In addition, Developer shall annually furnish the City copies of receipts for payments of premiums regarding such policies. 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 the Agreement. The failure of the City to obtain certificates or other insurance evidence is not a waiver by the City of any requirements for Developer to obtain and maintain the specified coverages. Non-conforming insurance constitutes an event of default.

Section 13. No Discrimination.

The Developer for itself and its successors and assigns agrees that, in the construction and completion of the development of the Project, the Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Developer shall take affirmative action to require that applicants are employed and that employees are treated in compliance with law during employment, and without regard to their race**,** creed, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising and solicitations or advertisements for employees; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices, which may be provided by the City, setting forth the provisions of this nondiscrimination clause. Notwithstanding the foregoing, the Developer may employ union labor hereunder pursuant to the rules, regulations and practices of

applicable unions and shall comply with all Legal Requirements regarding the subject of this Section of this Agreement.

Section 14. First Class Operation of the Project; Third Party Property Manager.

The Developer shall maintain and operate the Property in a first-class manner. "First-Class" as used in the Agreement, shall mean safe, secure, sanitary and well maintained and operated; and will meet or exceed the requirements as set forth in applicable federal, local and state law. In order to ensure the Property is maintained and operated in a first-class manner, the Developer, prior to allowing occupancy of the Property, shall enter into a property management agreement with an experienced and reputable third-party property management company and shall maintain the use of an experienced and reputable third-party property management company to manage the Property for the remainder of the term of the Agreement.

Section 15. Prevailing Wage.

The Developer acknowledges the adoption of Public Act 96-0058, effective January 1, 2010 which provides that under the Prevailing Wage Act, 820 ILCS 130/.01 et seq. (the "PWA"), the term "public works" includes all projects funded in whole or in part through bonds, grants, loans or other funds made available by or through the State or any of its political subdivisions. To the extent improvements relative to the Project are constructed after the Effective Date, the PWA requires contractors and subcontractors hired by the Developer to pay laborers, workers and mechanics performing services on public works projects such as the Project no less than the "prevailing rate of wages" (hourly cash wages plus fringe benefits) in the county where the work is performed. Information regarding current prevailing wage rates, is provided on the Illinois Department of Labor's website. All contractors and subcontractors rendering services under this Agreement must comply with all requirements of the PWA, *including but not limited to*, all wage, notice and record keeping duties.

Section 16. Waiver.

Either party to this Agreement may elect to waive any remedy it may enjoy hereunder, provided that such waiver shall be in writing. No such waiver shall obligate such party to waive any right or remedy hereunder or shall be deemed to constitute a waiver of other rights and remedies provided said party under this Agreement.

Section 17. Assignment.

Except for Permitted Assigns, as defined below, this Agreement may not be assigned by the Developer without the prior written consent of the City, which shall be requested by the Developer (and any successor transferee) no less than thirty (30) days prior to the proposed date of assignment. Any such consideration or consent to an assignment shall be at the sole discretion of the City. No such assignment shall be deemed to release the Developer of its obligation to the City unless the City specifically consents to such release in writing, which it is under no obligation to do. In the event the terms of this Agreement are assigned or otherwise transferred, no such transfer shall be effective unless (a) such transfer is undertaken in accordance with the terms of this Agreement and (b) the transferor provides the City with the name, mailing and email addresses, and fax and telephone numbers of the (proposed) transferee prior to the transfer in a manner consistent with Section 18

below. Notwithstanding the foregoing, no transfer shall be made hereunder to any proposed transferee that is prohibited from engaging in business with the City or any other body of government. Notwithstanding any other provision of this Agreement, and provided the obligations of the Guarantor set forth herein remain in effect for the term of this Agreement, the Developer may, without the prior written consent of the City: (a) assign this Agreement, including the Developer's obligations under this Agreement, to any entity that is majority owned or controlled by, majority owns or controls, or is under common ownership and control with DAC Developments, LLC ("Affiliate"), after which assignment the Developer shall be released from its obligations under this Agreement; and (b) collaterally assign its right to receive the TIF Payments under this Agreement to the Construction Lender and any other lender that provides financing for the acquisition of the Property and/or the construction of the Project ("Lender" and, together with any Affiliate, the "Permitted Assigns"). The Developer shall provide written notice to the City of any assignment to a Permitted Assign within five (5) business days after the assignment is effective.

Section 18. Severability.

If any section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Agreement or the application of same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

Section 19. Notices.

All notices, demands, requests, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

If to the Developer:
DAC Developments, LLC
640 North LaSalle Street, Suite 410
Chicago, Illinois 60654
Attn: Daniel Rezko

With a copy to:
Taft Stettinius & Hollister LLP
111 E. Wacker Drive, Suite 2800
Chicago, IL 60601
Attn: Anthony R. Licata
Karl D. Camillucci

If to the City:
Richard J. Veenstra, Esq.
Corporation Counsel
City of Aurora, Illinois
44 East Downer Place
Aurora, Illinois 60507

With a copy to:	David Dibo Executive Director, Economic Development City of Aurora 44 East Downer Place Aurora, Illinois 60507
and	Martin S. Lyons Chief Financial Officer City of Aurora 44 East Downer Place Aurora, Illinois 60507
and:	Del Galdo Law Group, LLC Attn: Michael Muthleb, Esq. 1441 South Harlem Ave. Berwyn, Illinois 60402

Section 20. Successors and Assigns.

The terms, conditions and covenants set forth in this Agreement shall extend to, be binding upon, and inure to the benefit of the respective successors and assigns of the City and the Developer and shall run with the land. Any person or entity now or hereafter owning legal title to all or any portion of the Property, including the Developer, shall be bound to this Agreement only during the period such person or entity is the legal titleholder of the Property or a portion thereof, however, that all such legal title holders shall remain liable after their ownership interest in the Property ceases as to those liabilities and obligations which accrued during their period of ownership but remain unsatisfied or unperformed. To the extent reasonable and applicable, the term "Developer" shall mean successors and assigns of the Developer. A memorandum of this Agreement shall be recorded against the Property.

Section 21. No Joint Venture, Agency or Partnership Created.

Neither anything in this Agreement nor any acts of the Parties to this Agreement shall be construed by the Parties or any third person to create the relationship of a partnership, agency, or joint venture between or among such Parties.

Section 22. Default; Remedies – Liability.

(a) If the Developer is in default of this Agreement, the City shall provide the Developer with a written statement setting forth the default of the Developer. Default is defined as Developer's lack of fulfillment of any obligation under this Agreement, including but limited to the following:

(i) The Developer fails to perform (by act or omission) any obligation under this Agreement, including, and without limitation, constructing the Project in substantial accordance with the Preliminary Project Plan or the milestones set forth in the Project Timeline as set forth in this Agreement.

(ii) If any representation or warranty made by Developer in this Agreement, or in any certificate, notice, demand or request made by Developer, in writing and delivered to the City pursuant to or in connection with this Agreement, shall prove to be untrue or incorrect in any material respect as of the date made.

(iii) The entry of a decree or order for relief by a court having jurisdiction in the premises in respect of Developer in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or State bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Developer, as the case may be, for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days.

(iv) The commencement by Developer of a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or State bankruptcy, insolvency or other similar law, or the consent by Developer, as the case may be, to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of Developer, as the case may be, or of any substantial part of the Property, or the making by any such entity of any assignment for the benefit of creditors or the failure of Developer, as the case may be, generally to pay such entity's debts as such debts become due or the taking of action by Developer, as the case may be, in furtherance of any of the foregoing, or a petition is filed in bankruptcy by others.

(v) Failure to have funds to meet Developer's obligations when due.

(vi) A sale, assignment, or transfer of the Property, except in accordance with this Agreement; or the abandonment of the Project on the Property. Abandonment shall be deemed to have occurred when work stops on the Property for more than sixty (60) days for any reason other than Uncontrollable Circumstances.

(vii) Change in the Developer, except in accordance with this Agreement.

(viii) Developer fails to comply with applicable governmental codes and regulations in relation to the construction and maintenance of the Project contemplated by this Agreement. The maintenance requirement of this provision shall not be covered by and shall survive any certificate of occupancy of any kind issued during the term of this Agreement.

Except as required to protect against further damages, the City may not exercise any remedies against the Developer in connection with a charged default unless Developer has failed to cure such default within sixty (60) days after receiving written notice from the City of the same. If such default cannot be cured within such sixty (60) day period, said sixty (60) day period shall be extended for such time as is reasonably necessary for the curing of the same, as long as the Developer is diligently proceeding to cure such default, as determined by the City in its reasonable discretion. A default not cured as provided above shall constitute a breach of this Agreement. Any failure or delay by the City in asserting any of its rights or remedies as to any default or alleged default or breach shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach.

(b) If the Developer shall fail to cure any default after the expiration of the cure period described in subparagraph (a), the City may elect to terminate this Agreement or exercise any other right or remedy it may have at law or in equity, including the right to specifically enforce the terms and conditions of this Agreement. If any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy or insolvency act shall be filed by or against the Developer, or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare the Developer insolvent or unable to pay the debts of the Developer, or the Developer makes an assignment for the benefit of its creditors, or a trustee or receiver is appointed for the Developer or for the major part of the Developer's property, the City may elect, to the extent such election is permitted by law, but is not required, with or without notice of such election and with or without entry or other action by the City, to terminate this Agreement.

(c) In addition to any other rights or remedies, the City may institute legal action to cure, correct or remedy any default, or to obtain any other remedy consistent with the purpose of this Agreement, either at law or in equity, including, but not limited to the equitable remedy of an action for specific performance.

(d) The rights and remedies of the City are cumulative and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or for any other default by the Developer.

(e) If the City is in default of this Agreement, the Developer shall provide the City with a written statement setting forth the default. The following shall be events of default by the City with respect to this Agreement:

(i) If any material representation is made by the City in this Agreement, or in any certificate, notice, demand or request made by the City, in writing and delivered to Developer pursuant to or in connection with this Agreement, shall prove to be untrue or incorrect in any material respect as of the date made.

(ii) Failure by the City in the performance or breach of any material covenant contained in this Agreement.

(iii) The City fails to perform (by act or omission) any obligation under this Agreement, including, without limitation, any failure to pay, when due, any disbursements of the Forgivable Loan and the Grant and any TIF Payments.

The Developer may not exercise any remedies against the City in connection with such default unless the City fails to cure such default within sixty (60) days after receiving notice of same. If such default cannot be cured within such sixty (60) day period, such sixty (60) day period shall be extended for such time as is reasonably necessary for the curing of the same, as long as the City is diligently proceeding to cure such default. A default not cured as provided above shall constitute a breach of this Agreement. Any failure or delay by the Developer in asserting its rights or remedies as to any default or any alleged default or breach shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach. Upon the occurrence of an uncured default of the City, the Developer shall have the available remedies of injunctive relief, specific performance, mandamus, and quo warranto. The Developer shall not be entitled to economic, consequential, incidental, preventative or punitive damages in the event of an uncured default.

(f) In the event of a breach of the terms of this Agreement or any occurrence related to the Project that constitutes a bona fide emergency to the property, health, safety or welfare of the City or its residents, the City shall be permitted to take any and all reasonable steps to mitigate such occurrence without being in default of the terms of this Agreement, but shall take reasonable steps to notify the Developer of the occurrence prior to the commencement of such steps to mitigate the outstanding occurrence.

(g) In the event any default is not cured within the applicable cure periods and a Party employs an attorney or attorneys or incurs other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement herein contained, the non-prevailing Party shall pay, on demand, the prevailing Party's, or Parties', reasonable fees of such attorneys and such other reasonable expenses in connection with such enforcement action.

(h) Upon the termination of this Agreement by reason of default by either Party, Section 11, Section 19, and Section 28 of this Agreement shall survive for a period of three hundred sixty-five (365) days and at such time the entire Agreement shall be deemed null and void. Notwithstanding the foregoing, if this Agreement is terminated by the City before the issuance of a Certificate of Project Completion by reason of an uncured default by the Developer, the Developer's repayment obligations with regards to the Grant and the Forgivable Loan set forth in this Section 2 shall survive the termination of this Agreement for a period of fifteen (15) years.

Section 23. Amendment.

This Agreement, and any exhibits attached to this Agreement, may be amended only in a writing signed by all the Parties and/or their successors in interest. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof.

Section 24. Exhibits.

Exhibits A through H attached to this Agreement are incorporated herein by this reference and are made part of this Agreement.

Section 25. Signs.

The City may erect a sign of reasonable size and style in a conspicuous location on the Property during the development of the Project indicating that the City provided funding to assist the Project.

Section 26. Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement in Portable Document Format (PDF) or by facsimile transmission shall be effective as delivery of a manually executed original counterpart of this Agreement.

Section 27. Force Majeure.

A party shall not be deemed in default of this Agreement with respect to any obligation(s) of this Agreement on such party's part to be performed if such party fails to timely perform the same and such failure is due in whole or in part to any strike, lockout, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruptions of power, restrictive governmental laws and regulations, condemnations, riots, insurrections, war, fuel shortages, accidents, casualties, floods, earthquakes, fires, acts of God, epidemics, pandemic, quarantine restrictions, freight embargoes, acts caused directly or indirectly by the other party (or the other party's agents, employees or invitees) or similar causes beyond the reasonable control of such party ("Force Majeure") related to the Project. If one of the foregoing events shall occur or either party shall notify the other party that such an event shall have occurred, the party to whom such notice is provided has the right, but not the obligation to investigate the notification and consult with the party making such claim of Force Majeure regarding the same and the party to whom such claim is made shall grant any extension for the performance of the unsatisfied obligation equal to the period of the delay, which period shall commence to run from the time of the commencement of the Force Majeure; provided that the failure of performance was caused or exacerbated by such Force Majeure.

Section 28. Choice of Law/Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois with venue lying in the Circuit Court for Kane County, Illinois.

Section 29. Cooperation and Further Assurances.

The Parties covenant and agree that each undertake, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto and such further acts as may be reasonably required to carry out the terms, provisions and the intent of this Agreement. The City agrees to cooperate with the Developer in the Developer's attempts to obtain all necessary governmental approvals for the Project at no additional cost or expense. The City shall process and consider reasonable requests of the Developer for relief or variances from any City ordinances, applicable building permits, or other permits necessary for the construction of the Project in accordance with Legal Requirements. Notwithstanding the foregoing, the City shall have no obligation to approve, to be a party to, or to be associated in any way with any third-party financing of the Project by the Developer.

Section 30. No Gifts.

Developer covenants that no director, employee or agent of Developer, or any other person with Developer, has made, offered to give, either directly or indirectly, to any member of the Corporate Authorities, or any officer, employee or agent of the City, or any other person connected with the City, any money or anything of value as a gift or bribe or other means of influencing his or her action in his or her capacity with the City.

Section 31. Repealer.

To the extent that any ordinance, resolution, rule, order or provision of the City Code, or any part thereof, is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling, to the extent lawful.

<signature page follows>

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers on the above date.

DAC DEVELOPMENTS, LLC,
An Illinois Limited Liability Company

By_____
Its:_____

GUARANTOR

By_____
Daniel Rezko

CITY OF AURORA, ILLINOIS
A Municipal Corporation

By_____
Mayor

ATTEST:

_____
City Clerk

ACKNOWLEDGMENT

State of ___)
) SS
County of _____)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of DAC Developments, LLC, an Illinois limited liability company authorized to do business in the State of Illinois (the "Company"), 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, as such _____, he/she signed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act and deed of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2021.

_____
Notary Public

ACKNOWLEDGMENT

State of ___)
) SS
County of _____)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Daniel Rezko, an individual (the "Guarantor"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act and deed of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2021.

_____
Notary Public

ACKNOWLEDGMENT

State of Illinois)
) SS
County of _____)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that _____ and _____, personally known to me to be the Mayor and City Clerk of the City of Aurora, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Mayor and City Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the City Council of said Illinois home rule municipal corporation, as their free and voluntary acts, and as the free and voluntary act and deed of said Illinois home rule municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2021.

_____
Notary Public

EXHIBIT A

PROPERTY DEPICTION

EXHIBIT B

PROPERTY LEGAL DESCRIPTION

PINs:

EXHIBIT C

PRELIMINARY PROJECT PLAN

EXHIBIT D

DEPICTION OF REDEVELOPMENT PROJECT AREA

EXHIBIT E

ELIGIBLE REDEVELOPMENT PROJECT COST SCHEDULE

EXHIBIT F

AFFIDAVIT

EXHIBIT G

PROJECT CHECKLIST

EXHIBIT H

PROJECT TIMELINE