



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Economic Development Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, FAICP, Director, Community Development Services

DATE: July 31, 2008

SUBJECT: **Redevelopment Agreement with TC-Met Urbana, LLC (Trammell Crow 1008-1012 West University)**

Introduction and Background

In early 2007, City staff was approached by representatives of the Trammell Crow Company regarding interest in a redevelopment project along University Avenue. The proposed project is a five-story mixed-use project that will include approximately 9,000 square feet of ground floor retail and 161 residential apartment units at a development cost of no less than \$17,000,000.

On November 26, 2007, the Urbana City Council adopted Ordinance 2007-11-125 approving a redevelopment agreement with TC-Met Urbana, LLC, Trammell Crow's development company for the Urbana project. Due to complications related to existing utilities and discrepancies in boundary survey work, the project has been delayed and required site plan modifications related mainly to parking. These delays and modifications have prompted Trammell Crow to request an amendment to the original redevelopment agreement to adjust the project timeline, project site plan, and the incentives offered.

Aside from their request to amend the redevelopment agreement, modifications to the site plan for the project require an amendment to an existing special use permit. On July 24, 2008, the amended special use permit (Plan Case 2078-SU-08) was forwarded to City Council by the Plan Commission with a unanimous recommendation for approval. The amended special use permit will also appear before City Council on August 4, 2008.

Discussion

The attached ordinance (Exhibit A) approves an amended redevelopment agreement with TC-Met Urbana, LLC for property located at 1008-1012 West University Avenue.

The proposed amended redevelopment agreement has been modified from the original agreement in several ways (changes highlighted in dark grey). In order to accommodate unanticipated complications with existing utilities and discrepancies in boundary survey work, the site plan attached to the original redevelopment has been modified. The main change in the proposed site plan attached to the amended redevelopment agreement relates to parking. The original site plan proposed one level of ground-level parking and one level of sub-surface parking. Due to the above mentioned complications, the developer has removed the level of sub-surface parking and will supplement the ground-level parking beneath the building with additional surface parking on the parcel to the west of the original project. Trammell Crow Company currently has an option to purchase the property at 508 North Goodwin, which includes a provision that Trammell Crow assist with the relocation of the business currently occupying the site, Odman-Hecker & Co.

Additionally, delays to the project due to the above mentioned complications have prompted modifications to the various project milestone dates. Section 3.1 of the original agreement included a series of activities and the dates for completion of those activities. The developer has asked that the initial activity in Section 3.1 of the amended agreement, “Apply for building permit for Development Project”, have a completion date of October 1, 2008, and that all of the subsequent activities be modified accordingly. A summary of these changes is provided below.

Section 3.1

The new proposed start date has been moved back to October 1, 2008. All other dates have been moved back two months from the start date per the original agreement.

<u>Activity</u>	<u>New Completion Date</u>	<u>Original Completion Date</u>
Apply for building permit for Development Project	October 1, 2008	January 31, 2008
Deliver to the City a budget itemizing all costs to complete the Development Project in an amount not less than \$17,000,000	December 1, 2008	March 31, 2008
Undertake demolition and site preparation of Development Project Site	December 1, 2008	March 31, 2008
Award initial contract for construction of Development Project	December 1, 2008	March 31, 2008

The other proposed date change relates to completion of construction and the issuance of a certificate of occupancy. In Section 4.1, the original agreement sets a completion date of July 31, 2009. As this project will be marketed primarily to students, the City and the developer agreed that the proposed completion date should coincide with the beginning of the academic year. Therefore, the proposed completion date is now proposed to be July 31, 2010, which is a change of one year from the original projected completion date.

Related to the change in completion date, the Tax Increment Finance District 3 (TIF 3) reimbursement has also been modified to account for the project delay. A portion of the original development project was located in TIF 3, thereby making the project eligible for TIF incentives. The original redevelopment agreement provided for a TIF reimbursement of 63.5% of the project's annual incremental property taxes for eligible expenses through 2013 (the sunset year for TIF 3), with the total amount not to exceed \$1,250,000. Using the original completion date of July 31, 2009, Trammell Crow planned to receive four years of TIF reimbursements enabling them to approach the total reimbursement amount of \$1,250,000. With the new proposed completion date, it is reasonable to expect only three years of TIF reimbursements through 2013. Trammell Crow has asked the City to increase the annual TIF reimbursement to 85% of the project's annual incremental property taxes to account for one less year of reimbursement. The total reimbursement will continue to not exceed \$1,250,000, but will be offered over three years in the proposed agreement rather than four years as in the original agreement. These changes are reflected in Section 3.2 of the agreement.

Fiscal Impact

Both the costs and revenues associated with this redevelopment agreement will be realized by TIF 3. As has been mentioned above, the maximum TIF rebate to the developer over the life of the agreement is **\$1,250,000**. As the below chart shows, even with the 85% rebate, TIF 3 is poised to receive just under \$70,000 in annual net revenue the first year taxes are paid for the project. Adjusting for a 3% increase annually, TIF 3 will realize just over \$73,000 in net revenue in 2013, with an estimated three year net revenue total of **\$213,771**, accruing to the fund due to this project.

Additionally, following the sunset of TIF 3 in 2013, all of the involved taxing authorities, including Urbana, will receive a combined \$500,000 in annual tax revenue directly attributable to this project.

Unrelated to the TIF benefits, the proposed project is located within the City's Enterprise Zone. As such, the project is eligible for the Building Materials Sales Tax Exemption. The exact amount of that benefit will vary based on the value of building materials used, and a majority of the cost associated with that benefit will be borne by the State of Illinois.

The fiscal analysis summarized below indicates that this project will have a positive fiscal impact for TIF 3, the City, and the other taxing authorities.

1008-1012 W. University - Trammell Crow Mixed-Use Project

TIF/EZ Incentives for Trammell Crow Development - Est. Project Const. Cost \$17,000,000

Name	Amount
85% TIF Rebate (3 yr.)	\$1,211,368
EZ Sales Tax Exemption Blg. Materials*	\$437,500
Total Incentive Benefit =	\$1,648,868

* Assumes \$7M in materials purchases within IL, State sales tax rate is 6.25%

	RY10	RY11	RY12	RY13
Land Tax	17,669	0	0	0
Bldg. Tax	10,818	465,188	479,144	493,518
Total Tax	28,487	465,188	479,144	493,518
Cum. Total Tax	28,487	493,675	972,819	1,466,337
Base Tax Value	4,237	4,237	4,237	4,237
Increment	0	460,951	474,907	489,281
Cum. Incre.	0	460,951	935,858	1,425,139
TIF Rebate	0	391,808	403,671	415,889
Cum. Payment	0	391,808	795,479	1,211,368
Increment to TIF 3	0	69,143	71,236	73,392
Cum. Incre. To TIF 3	0	69,143	140,379	213,771

1. Assumes current tax rates and annual inflation of 3%
2. Table assumes 85% TIF rebate until TIF 3 Expiration in 2013
3. All amounts are in 2008 dollars
4. Land tax is zero starting Revenue Year 10 because the land value will be attributed to parcel outside the TIF area

Options

1. Approve the ordinance as presented
2. Approve the ordinance with changes. It should be noted that any changes will need to be agreed upon by the developer.
3. Deny the ordinance.

Recommendation

Staff recommends that the City Council approve the attached ordinance.

Prepared by:

Tom Carrino, Economic Development Manager

Attachments:

Draft Ordinance with Agreement and Conceptual Site Design

ORDINANCE NO. 2008-08-081

AN ORDINANCE APPROVING A REDEVELOPMENT AGREEMENT, FIRST AMENDED AND RESTATED, WITH TC-MET URBANA, LLC
(1008-1012 West University Avenue / Trammell Crow)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That a Redevelopment Agreement First Amended and Restated Between the City of Urbana and TC-Met Urbana, LLC in substantially the form of the copy of said Agreement attached hereto, be and the same is hereby approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Assignment and Estoppel Certificate as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this ____ day of _____, 2008.

AYES:

NAYS:

ABSTAINS:

Phyllis Clark, City Clerk

APPROVED by the Mayor this ____ day of _____, 2008.

Laurel Lunt Prussing, Mayor

**REDEVELOPMENT AGREEMENT
FIRST AMENDED AND RESTATED**

by and between the

CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS

and

**TC-MET URBANA, LLC
A DELAWARE LIMITED LIABILITY COMPANY**

Dated as of August 1, 2008

Document Prepared By:

**Kenneth N. Beth
Evans, Froehlich, Beth & Chamley
44 Main Street, Third Floor
P.O. Box 737
Champaign, IL 61820**

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- EXHIBIT A Design Proposal
EXHIBIT B Legal Description of Development Project Site

REDEVELOPMENT AGREEMENT FIRST AMENDED AND RESTATED

THIS REDEVELOPMENT AGREEMENT FIRST AMENDED AND RESTATED

(including any exhibits and attachments hereto, collectively, this **“Agreement”**) is made and entered into as of August 1, 2008, but actually executed by each of the parties on the dates set forth beneath their respective signatures below, by and between the **City of Urbana, Champaign County, Illinois**, an Illinois municipal corporation (the **“City”**), and **TC-Met Urbana, LLC**, a Delaware limited liability company (the **“Developer”**). This Agreement shall become effective upon the date of the last of the City and the Developer to execute and deliver this Agreement to the other (the **“Effective Date”**).

RECITALS

WHEREAS, in accordance with and pursuant to the Tax Increment Allocation Redevelopment Act (presently codified at 65 ILCS 5/11-74.4-1 *et seq.*), as supplemented and amended (the **“TIF Act”**), including by the power and authority of the City as a home rule unit under Section 6 of Article VII of the Constitution of Illinois, the City Council of the City (the **“Corporate Authorities”**) did adopt an ordinance (Ordinance No. 8990-59 on December 18, 1989) including as supplemented and amended by certain ordinances (Ordinance No. 9091-65 on December 3, 1990 and Ordinance No. 2002-06-065 on June 17, 2002) (collectively, the **“TIF Ordinances”**); and

WHEREAS, under and pursuant to the TIF Act and the TIF Ordinances, the City designated the North Campus and King Park Redevelopment Project Area (the **“Redevelopment Project Area”**) and approved a related North Campus and King Park Redevelopment Plan, as supplemented and amended by the North Campus and King Park Redevelopment Plan, First Amended and Restated (collectively, the **“Redevelopment Plan”**) including the respective redevelopment projects described in the Redevelopment Plan (collectively, the **“Redevelopment Projects”**); and

WHEREAS, as contemplated by the Redevelopment Plan and the Redevelopment Projects, the City and the Developer previously entered into a Redevelopment Agreement dated as of November 1, 2007 (the **“Prior Redevelopment Agreement”**) in order to induce the Developer to acquire, construct and install (or cause to be done) the Development Project (including related and

appurtenant facilities as more fully defined in the Prior Redevelopment Agreement) on the Development Project Site (as defined in the Prior Redevelopment Agreement); and

WHEREAS, the City and the Developer now desire to supplement, amend and supersede in its entirety the Prior Redevelopment Agreement by the provisions of this Agreement in order to enhance the marketability and economic viability of the Redevelopment Project (as defined below); and

WHEREAS, a part of the Development Project Site (as now expanded and defined below) on which the Development Project (as now revised and defined below) is to be located is within the Redevelopment Project Area; and

WHEREAS, the Developer is unwilling to undertake the Development Project (as now revised and defined below) without certain tax increment finance (“**TIF**”) incentives from the City, which the City is willing to provide, and the City has determined that it is desirable and in the City’s best interests to assist the Developer in the manner set forth herein and as this Agreement may be supplemented and amended.

NOW, THEREFORE, for and 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 City and the Developer hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. For purposes of this Agreement and unless the context clearly requires otherwise, the capitalized words, terms and phrases used in this Agreement shall have the meaning provided in the above Recitals and from place to place herein, including as follows:

“Corporate Authorities” means the City Council of the City.

“Design Proposal” means the site plan and the schematic elevation and floor plans for the Development Project, a copy of which is attached hereto as Exhibit A.

“Development Project” means the construction of a mixed use residential and retail/commercial building, including approximately 9,000 square feet of retail space (the **“Retail**

Space”), to be built substantially in accordance with the Design Proposal within or upon the Development Project Site at a total cost of not less than \$17,000,000.

“Development Project Site” means, collectively, the real estate consisting of the parcel or parcels legally described in Exhibit B hereto, upon or within which the Development Project is to be located.

“Eligible Redevelopment Project Costs” means those costs paid and incurred by the Developer in connection with the Development Project Site and the Development Project which are authorized to be reimbursed or paid from the Fund as provided in Section 5/11-74.4-3(q) of the TIF Act.

“Fund” means, collectively, the “Special Tax Allocation Fund” for the Redevelopment Project Area established under Section 5/11-74.8 of the TIF Act and the TIF Ordinances.

“Incremental Property Taxes” means in each calendar year during the term of this Agreement, the portion of the ad valorem real estate taxes arising from levies upon taxable real property in the Redevelopment Project Area by taxing districts that is attributable to the increase in the equalized assessed value of the taxable real property in the Redevelopment Project Area over the equalized assessed value of the taxable real property in the Redevelopment Project Area as of January 1, 1986 which, pursuant to the TIF Ordinances and Section 5/11-74.4-8(b) of the TIF Act, has been allocated to and when collected shall be paid to the Treasurer of the City for deposit by the Treasurer into the Fund established to pay Eligible Redevelopment Project Costs and other redevelopment project costs as authorized under Section 5/11-74.4-3(q) of the TIF Act.

“Independent” or **“independent”**, when used with respect to any specified person, means such person who is in fact independent and is not connected with the City or the Developer as an officer, employee, partner, or person performing a similar function, and whenever it is provided in this Agreement that the opinion or report of any independent person shall be furnished, such person shall be appointed by the Developer and approved by the City, and such opinion or report shall state that the signer had read this definition and that the signer is independent within the meaning hereof.

“Reimbursement Amounts” means, collectively, amounts to be reimbursed or paid from the Fund to the Developer by the City under and pursuant to Section 3.2(a) of this Agreement.

“Related Agreements” means all development, redevelopment, construction, financing, franchise, loan, mortgage, ground lease and lease agreements, whether now or hereafter existing, executed by the Developer in connection with the Development Project.

“Requisition” means a request by the Developer for a payment or reimbursement of Eligible Redevelopment Project Costs pursuant to the procedures set forth in Article V of this Agreement.

Section 1.2. Construction. This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) definitions include both singular and plural;
- (b) pronouns include both singular and plural and cover all genders;
- (c) headings of sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof; and
- (d) all exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. In order to induce the Developer to enter into this Agreement, the City hereby makes certain representations and warranties to the Developer, as follows:

(a) **Organization and Standing.** The City is a home rule municipality duly organized, validly existing and in good standing under the Constitution and laws of the State of Illinois.

(b) **Power and Authority.** The City has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) **Authorization and Enforceability.** The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the City’s

Corporate Authorities. This Agreement is a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, except to the extent that any and all financial obligations of the City under this Agreement shall be limited to the availability of such Incremental Property Taxes therefor as may be specified in this Agreement and that such enforceability may be further limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) No Violation. Neither the execution nor the delivery of this Agreement or the performance of the City's agreements, obligations and undertakings hereunder will conflict with, violate or result in a breach of any of the terms, conditions, or provisions of any agreement, rule, regulation, statute, ordinance, judgment, decree, or other law by which the City may be bound.

(e) Governmental Consents and Approvals. No consent or approval by any governmental authority is required in connection with the execution and delivery by the City of this Agreement or the performance by the City of its obligations hereunder.

Section 2.2. Representations and Warranties of the Developer. In order to induce the City to enter into this Agreement, the Developer makes the following representations and warranties to the City:

(a) Organization. The Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, and is duly qualified to transact business in, and is in good standing under, the laws of the State of Illinois and each of the other states where the Developer is required to be qualified to do business.

(b) Power and Authority. The Developer has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) Authorization and Enforceability. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the Developer's member. This Agreement is a legal, valid and binding agreement, obligation and

undertaking of the Developer, enforceable against the Developer in accordance with its terms, except to the extent that such enforceability may be limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) No Violation. Neither the execution nor the delivery or performance of this Agreement will conflict with, violate or result in a breach of any of the terms, conditions, or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitle any party to terminate or declare a default under any contract, agreement, lease, license or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree or other law to which the Developer is a party or by which the Developer or any of its assets may be bound.

(e) Consents. No consent or approval by any governmental authority or other person is required in connection with the execution and delivery by the Developer of this Agreement or the performance thereof by the Developer.

(f) No Proceedings or Judgments. There is no claim, action or proceeding now pending, or to the best of its knowledge, threatened, before any court, administrative or regulatory body, or governmental agency (1) to which the Developer is a party and (2) which will, or could, prevent the Developer's performance of its obligations under this Agreement.

Section 2.3. Related Agreements. Upon the request of the City, the Developer shall deliver true, complete and correct copies of all Related Agreements (which may be redacted by the Developer to protect any confidential or proprietary information). The Developer represents and warrants to the City that such Related Agreements now executed and delivered are in full force and effect and have not been cancelled or terminated and that the Developer is not aware of any of its obligations under any of such existing Related Agreements required to be performed on or before the date hereof which have not been performed by the Developer or the other parties thereto.

Section 2.4. Disclaimer of Warranties. The City and the Developer acknowledge that neither has made any warranties to the other except as set forth in this Agreement. The City hereby

disclaims any and all warranties with respect to the Development Project, express or implied, including, without limitation, any implied warranty of fitness for a particular purpose or merchantability or sufficiency of the Incremental Property Taxes for the purposes of this Agreement. Nothing has come to the attention of the Developer to question the assumptions or conclusions or other terms and provisions of any projections of Incremental Property Taxes, and the Developer assumes all risks in connection with the practical realization of any such projections of Incremental Property Taxes.

ARTICLE III

CITY’S COVENANTS AND AGREEMENTS

Section 3.1. Conditions Precedent. The agreements, obligations and undertakings of the City as set forth in this Agreement are expressly contingent upon the Developer having completed each “Activity” on or before the “Completion Date” in accordance with the schedule set forth below:

<u>Activity</u>	<u>Completion Date</u>
Apply for building permit for Development Project	October 1, 2008
Deliver to the City a budget itemizing all costs to complete the Development Project in an amount not less than \$17,000,000	December 1, 2008
Undertake demolition and site preparation of Development Project Site	December 1, 2008
Award initial contract for construction of Development Project	December 1, 2008

If the Developer shall fail to demonstrate that it had in fact fulfilled its respective obligation in connection with each “Activity” on or before the applicable “Completion Date”, the City shall have the right and option to immediately terminate this Agreement by providing written notice of such termination upon the Developer, in which event the City shall have no further obligations under this Agreement and this Agreement shall thereupon automatically terminate and be of no force or effect.

Section 3.2. City’s Financial Obligations. The City shall have the obligations set forth in this Section 3.2 relative to financing Eligible Redevelopment Project Costs in connection with the Development Project. Upon the submission to the City by the Developer of a Requisition for Eligible Redevelopment Project Costs incurred and paid, the City, subject to the terms, conditions

and limitation set forth in this Section 3.2 immediately below, agrees to reimburse the Developer from the Fund such Reimbursement Amounts as are paid and incurred by the Developer and are directly related to the Development Project at the Development Project Site as follows:

(a) such Reimbursement Amounts in connection with the Development Project shall not exceed in any one calendar year eighty-five percent (85%) of the Incremental Property Taxes actually received by the City in each such calendar year which are directly attributable to the Development Project at the Development Project Site;

(b) for the purpose of calculating the total amount of Incremental Property Taxes for any such calendar year which are directly attributable to the Development Project, the total equalized assessed value (the “EAV”) of the Development Project Site for such calendar year shall be reduced by the initial EAV of the Development Project Site in the agreed amount of \$58,122, and the result shall be multiplied by the total tax rate of all taxing districts having taxable property within the Redevelopment Project Areas for any such applicable calendar year;

(c) the total amount of all such annual payments of the Reimbursement Amounts pursuant to this Section 3.2(a) above shall not exceed the total amount of all Eligible Redevelopment Project Costs which are directly attributable and allocable to the Development Project at the Developer Project Site or \$1,250,000, whichever is less; and

(d) the obligations of the City to reimburse the Developer for any Reimbursement Amounts under this Section 3.2 shall be for a maximum period of three (3) calendar years, commencing with the calendar year following the calendar year in which a certificate of occupancy is issued for the Development Project, and shall terminate upon reimbursement by the City in accordance with Article V of this Agreement not later than December 31 of the third calendar year in which any such Reimbursement Amounts in connection with the Developer Project become due and payable pursuant to this Section 3.2.

Section 3.3. Defense of Redevelopment Project Area. In the event that any court or governmental agency having jurisdiction over enforcement of the TIF Act and the subject matter contemplated by this Agreement shall determine that this Agreement, including any payments of

any Reimbursement Amounts to be made by the City are contrary to law, or in the event that the legitimacy of the Redevelopment Project Area are otherwise challenged before a court or governmental agency having jurisdiction thereof, the City will defend the integrity of the Redevelopment Project Area and this Agreement. Anything herein to the contrary notwithstanding, the Developer agrees that the City may, to the extent permitted by law, use any Incremental Property Taxes, including any unpaid Reimbursement Amounts, if available, to be redirected to reimburse the City for its defense costs, including without limitation attorneys' fees and expenses.

ARTICLE IV

DEVELOPER'S COVENANTS

Section 4.1. Commitment to Undertake the Development Project and Schedule. The Developer covenants and agrees to substantially complete, as evidenced by the issuance of a certificate of occupancy, the Development Project on or before **July 31, 2010**. During the progress of the Development Project, the Developer and the Mayor of the City may authorize such changes to the Development Project as shown on the Design Proposal or any aspect thereof as may be in furtherance of the general objectives of the Redevelopment Plan and this Agreement and as site conditions or other issues of feasibility may dictate or as may be required to meet the reasonable requests of prospective tenants or as may be necessary or desirable in the sole discretion of the Developer and the Mayor to enhance the economic viability of the Development Project; provided, however, that the Developer shall not make any material change to the Development Project as shown on the Design Proposal, whether individually with respect to any phase or in the aggregate, without the advance written consent of the Corporate Authorities.

Section 4.2. Compliance with Agreement and Laws During Development. The Developer shall at all times acquire, construct and install the Development Project in conformance with this Agreement, the Design Proposal and all applicable laws, rules and regulations, including without limitation all applicable subdivision, zoning, environmental, building code or any other land use ordinances of the City, and, to the extent applicable, the Prevailing Wage Act (820 ILCS 130/0.01 et seq.) of the State of Illinois. The Developer shall cause the Development Project to be

designed, constructed and installed utilizing innovative and effective techniques in energy conservation that meet or exceed the standards required by Illinois Energy Conservation Code. Any agreement of the Developer related to the acquisition, construction, installation and development of the Development Project with any contractor, subcontractor or supplier shall, to the extent applicable, contain provisions substantially similar to those required of the Developer under this Agreement.

Section 4.3. City's Right to Audit Developer's Books and Records. The Developer agrees that the City or its agents shall have the right and authority to review and audit, from time to time (at the Developer's principal office during normal business hours) the Developer's books and records relating to the total amount of all costs paid or incurred by the Developer for the Development Project and the total amount of related Eligible Redevelopment Project Costs, including, if any, loan agreements, notes or other obligations in connection with any indebtedness of the Developer directly related to such costs paid or incurred by the Developer for the Development Project in order to confirm that any such Eligible Redevelopment Project Costs claimed to have been paid and incurred by the Developer were directly related and allocable to the costs of the Development Project that was financed by the Developer and in fact paid and incurred by the Developer.

Section 4.4. Indemnity. The Developer covenants and agrees to pay, at its expense, any and all claims, damages, demands, expenses, liabilities and losses resulting from the acquisition, construction and installation of the Development Project, any development activities in connection with the Development Project or any use, operation, maintenance or occupancy of the Development Project by the Developer and its agents, contractors and subcontractors with respect to the Development Project and this Agreement, and to indemnify and hold and save the City and its officers, agents, employees, engineers and attorneys (the "**Indemnitees**") harmless of, from and against such claims, damages, demands, expenses, liabilities and losses, except to the extent such claims, damages, demands, expenses, liabilities and losses arise by reason of the negligence or willful misconduct of the City or other Indemnitees.

Section 4.5. Continued Compliance With All Laws. The Developer agrees that in the continued use, occupation, operation and maintenance of the Development Project following its completion, the Developer will comply with all applicable federal and state laws, rules and regulations and all applicable City ordinances, codes and regulations.

Section 4.6. Real Estate Tax Obligations. The Developer agrees to pay and discharge, promptly and when the same shall become due, all general real estate taxes, and all applicable interest and penalties thereon, that at any time shall become due and payable upon or with respect to, or which shall become liens upon, any part of the Development Project Site. The Developer, including any others claiming by or through it, hereby covenants and agrees not to file any application for property tax exemption for any part of the Development Project Site under any applicable provisions of the Property Tax Code of the State of Illinois (35 ILCS 200/1-1 et seq.), as supplemented and amended, unless the City and the Developer shall otherwise have first entered into a mutually acceptable agreement under and by which the Developer shall have agreed to make a payment in lieu of taxes to the City, it being mutually acknowledged and understood by both the City and the Developer that any such payment of taxes (or payment in lieu thereof) by the Developer is a material part of the consideration under and by which the City has entered into this Agreement. This covenant of the Developer shall be a covenant that runs with the land being the Development Project Site upon which the Developer Project is located and shall be in full force and effect until December 31, 2027, upon which date this covenant shall terminate and be of no further force or effect (and shall cease as a covenant binding upon or running with the land) immediately, and without the necessity of any further action by City or Developer or any other party; provided, however, upon request of any party in title to the Development Project Site the City shall execute and deliver to such party an instrument, in recordable form, confirming for the record that this covenant has terminated and is no longer in effect. Nothing contained within this Section 4.6 shall be construed, however, to prohibit the Developer from initiating and prosecuting at its own cost and expense any proceedings permitted by law for the purpose of contesting the validity or amount of real estate taxes assessed and levied upon the Development Project Site or any part thereof.

Section 4.7. Leasing of Retail Space. By not later than six (6) months after receipt of a building permit for the Development Project and continuing for a period of one (1) year after the date that the Development Project is substantially complete, as evidenced by the issuance of a certificate of occupancy, the Developer shall, through a professional leasing company, market the Retail Space within the Development Project to prospective tenants whose use of such Retail Space is subject to the payment of sales taxes (“**Retail Tenants**”) and, during such period, shall not lease the Retail Space to other than a Retail Tenant. In the event that such Retail Space or any such part thereof has not been leased to one or more Retail Tenants during such period or it thereafter becomes vacant, while Developer shall continue to seek Retail Tenants, the Developer may lease such vacant Retail Space or any part thereof to other prospective tenants, whether or not such tenant’s use is subject to the payment of sales tax.

ARTICLE V

PAYMENT FOR ELIGIBLE REDEVELOPMENT PROJECT COSTS

Section 5.1. Payment Procedures. The City and the Developer agree that the Eligible Redevelopment Project Costs constituting the Reimbursement Amounts shall be paid solely, and to the extent available, from Incremental Property Taxes attributable to the Development Project at the Development Project Site that are actually received and deposited in the Fund and not otherwise. The City and the Developer intend and agree that any Reimbursement Amounts shall be disbursed by the Comptroller of the City for payment to the Developer in accordance with the procedures set forth in this Section 6.1 of this Agreement.

The City hereby designates the Comptroller of the City (the “**Comptroller**”) as its representative to coordinate the authorization of disbursement of any annual Reimbursement Amounts for the Eligible Redevelopment Project Costs. Payments to the Developer of any Reimbursement Amounts for Eligible Redevelopment Project Costs shall be made upon request therefor, in form reasonably acceptable to the City (each being a “**Requisition**”) submitted by the Developer on or after September 1 of each applicable calendar year with respect to any Eligible Redevelopment Project Costs incurred but not previously submitted. Each such Requisition shall be

accompanied by such documentation or by the statement or report of an Independent accountant which shows and verifies that any such Eligible Project Redevelopment Costs have in fact been paid and incurred by the Developer.

Section 5.2. Approval and Resubmission of Requisitions. The Comptroller shall give the Developer written notice disapproving any Requisition within ten (10) days after receipt thereof. No such approval shall be denied except on the basis that either of the following have not been sufficiently documented or specified herein: (i) the amount of the total Eligible Redevelopment Project Costs paid and incurred by the Developer, or (ii) such Eligible Redevelopment Project Costs being directly related to the costs paid or incurred by the Developer for the Development Project at the Development Project Site. If a Requisition is disapproved by such Comptroller, the reasons for disallowance will be set forth in writing and the Developer may resubmit any such Requisition with such additional documentation or verification as may be required. The same procedures set forth herein applicable to disapproval shall apply to such resubmittals.

Section 5.3. Time of Payment. Upon the approval of an applicable Requisition as set forth in Section 6.2 above, the City shall pay each of the applicable annual Reimbursement Amounts to the Developer within thirty (30) days after the receipt by the City of the last installment of the Incremental Property Taxes in any applicable calendar year.

Section 5.4. Shortfalls. If any Requisition is not paid in full in any calendar year due to any of the limitations specified for Reimbursement Amounts in Section 3.2(a) hereof, the entire amount of any Requisition remaining to be paid shall accrue and, subject to and in accordance with the payment procedures set forth in this Article V, shall be paid as a part of any applicable annual Reimbursement Amounts in the next or any succeeding calendar year at the time of payment.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.1. Events of Default. The occurrence of any one or more of the events specified in this Section 6.1 shall constitute a “**Default**” under this Agreement.

(a) The furnishing or making by or on behalf of the Developer of any statement or representation in connection with or under this Agreement or any of the Related Agreements that is false or misleading in any material respect;

(b) The failure by the Developer to timely perform any term, obligation, covenant or condition contained in this Agreement or any of the Related Agreements;

(c) The failure by the City to pay any Reimbursement Amounts which become due and payable in accordance with the provisions of Article V of this Agreement; and

(d) The failure by the City to timely perform any other term, obligation, covenant or condition contained in this Agreement.

Section 6.2. Rights to Cure. The party claiming a Default under Section 6.1 of this Agreement (the “**Non-Defaulting Party**”) shall give written notice of the alleged Default to the other party (the “**Defaulting Party**”) specifying the Default complained of. Except as required to protect against immediate, irreparable harm, the Non-Defaulting Party may not institute proceedings or otherwise exercise any right or remedy against the Defaulting Party until thirty (30) days after having given such notice, but may suspend performance under this Agreement until the Non-Defaulting Party receives written assurances, deemed reasonably adequate by the Non-Defaulting Party, from the Defaulting Party that the Defaulting Party will cure the Default and remain in compliance with its obligations under this Agreement. A Default not cured within thirty (30) days as provided above shall constitute an “**Event of Default**” under this Agreement; provided, however, that if the Default is not capable of being cured within such thirty (30) day period, it shall not be deemed to be an Event of Default hereunder if the Default is commenced to be cured within such thirty (30) day period and is thereafter diligently and continuously prosecuted until finally cured. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any Default or any Event of Default shall not operate as a waiver of any such Default, Event of Default or of any other rights or remedies it may have as a result of such Default or Event of Default.

Section 6.3. Remedies. Upon the occurrence of an Event of Default under this Agreement by the Developer, the City shall have the right to terminate this Agreement by giving written notice to the Developer of such termination and the date such termination is effective. Except for such right of termination by the City, the only other remedy available to either party upon the occurrence of an Event of Default under this Agreement by the Defaulting Party shall be to institute legal action against the Defaulting Party for specific performance or other appropriate equitable relief. Except for the payment of any Reimbursement Amounts which become due and payable in accordance with the provisions of Article V hereof, under no circumstances shall the City be subject to any monetary liability or be liable for damages (compensatory or punitive) under any of the other provisions, terms and conditions of this Agreement. In the event that any failure of the City to pay any Reimbursement Amounts which become due and payable in accordance with the provisions of Article V hereof is due to insufficient Incremental Property taxes which are directly attributable to the Development Project at the Development Project Site being actually received by the City, any such failure shall not be deemed to be a Default on the part of the City.

Section 6.4. Costs, Expenses and Fees. Upon the occurrence of a Default which requires either party to undertake any action to enforce any provision of this Agreement, the Defaulting Party shall pay upon demand all of the Non-Defaulting Party's charges, costs and expenses, including the reasonable fees of attorneys, agents and others, as may be paid or incurred by such Non-Defaulting Party in enforcing any of the Defaulting Party's obligations under this Agreement or in any litigation, negotiation or transaction in connection with this Agreement in which the Defaulting Party causes the Non-Defaulting Party, without the Non-Defaulting Party's fault, to become involved or concerned.

ARTICLE VII

TRANSFER LIMITATIONS

Section 7.1 Representation as to Development. The Developer represents to the City that its purchase of the Development Project Site, and its other undertakings under this Agreement, are for redevelopment purposes and not for speculation in land holding. The Developer acknowledges

that, in view of the importance of the development of the Development Project to the general welfare of the City, and the substantial financing that has been made available by the City for the purpose of making such development possible, the nature and scope of the particular improvements of the Development Project as specified in the Design Proposal and this Agreement are of particular concern to the City. The Developer further acknowledges that the City is willing to enter into this Agreement with the Developer because of such nature and scope of the Development Project.

Section 7.2. Limitations on Assignment. The Developer agrees that it shall not sell, assign or otherwise transfer its rights and obligations under this Agreement in whole without the prior written consent of the City, except for: (i) any assignment of this Agreement as collateral, or (ii) any related sale, assignment or transfer of this Agreement in whole which is made to an assignee in connection with a conveyance to such assignee of all right, title and interest of the Developer in and to the Development Project Site. In no event shall the Developer have the right to sell, assign or otherwise transfer any of its rights or obligations under this Agreement in part to any assignee. Except as otherwise provided in this Section, any assignment in whole without the City's consent or any assignment in part shall be void and shall, at the option of the City, terminate this Agreement. No such sale, assignment or transfer authorized in this Section, including any without the City's consent, shall be effective or binding on the City, however, unless and until the Developer delivers to the City a duly authorized, executed and delivered instrument which contains any such sale, assignment or transfer and the assumption of all the applicable covenants, agreements, terms and provisions of this Agreement by the assignee thereof. Any assignment of this Agreement as authorized and becoming effective under this Section shall release and discharge the assignor from any further rights and obligations under this Agreement.

Section 7.3. Information as to Partners and/or Stockholders. In order to assist in the effectuation of the purposes of this Article VII of this Agreement, the Developer agrees that during the period between execution of this Agreement and the substantial completion of the Development Project as evidenced by the issuance of a certificate of occupancy by the City, the Developer will promptly notify the City in writing of any and all changes in control of the Developer, other than to

an affiliate of Developer. The term control (including the terms “controlling,” “controlled by,” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of interests in such entity, by contract, or otherwise. The term “affiliate” means an entity that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under the common control with Developer or one or more of Developer’s partners, members or shareholders, as the case may be.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.1 Entire Contract and Amendments. This Agreement (together with the Exhibits A and B attached hereto) is the entire agreement between the City and the Developer relating to the subject matter hereof. This Agreement supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, including in particular the Prior Redevelopment Agreement, and may not be modified or amended except by a written instrument executed by both of the parties.

Section 8.2. Third Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the City and the Developer and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to either the City or the Developer, nor shall any provision give any third parties any rights of subrogation or action over or against either the City or the Developer. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

Section 8.3. Counterparts. Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

Section 8.4. Special and Limited Obligation. This Agreement shall constitute a special and limited obligation of the City according to the terms hereof. This Agreement shall never

constitute a general obligation of the City to which its credit, resources or general taxing power are pledged. The City pledges to the payment of its obligations hereunder only such amount of the Incremental Property Taxes attributable to the Development Project at the Development Project Site as is set forth in Section 3.2 hereof, if, as and when received, and not otherwise.

Section 8.5. Time and Force Majeure. Time is of the essence of this Agreement; provided, however, neither the Developer nor the City shall be deemed in default with respect to any performance obligations under this Agreement on their respective parts to be performed if any such failure to timely perform is due in whole or in part to the following (which also constitute “unavoidable delays”): any strike, lock-out or other labor disturbance (whether legal or illegal, with respect to which the Developer, the City and others shall have no obligations hereunder to settle other than in their sole discretion and business judgment), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruption of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, acts of terrorism, war, fuel shortages, accidents, casualties, acts of God or third parties, or any other cause beyond the reasonable control of the Developer or the City.

Section 8.6. Waiver. Any party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

Section 8.7. Cooperation and Further Assurances. The City and the Developer covenant and agree that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the City or the Developer or other appropriate persons all and singular the rights, property and revenues

covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of this Agreement.

Section 8.8. Notices and Communications. All notices, demands, requests or other communications under or in respect of this Agreement shall be in writing and shall be deemed to have been given when the same are (a) deposited in the United States mail and sent by registered or certified mail, postage prepaid, return receipt requested, (b) personally delivered, (c) sent by a nationally recognized overnight courier, delivery charge prepaid or (d) transmitted by telephone facsimile, telephonically confirmed as actually received, in each case, to the City and the Developer at their respective addresses (or at such other address as each may designate by notice to the other), as follows:

- (i) In the case of the Developer, to:
TC-MET URBANA, LLC
601 NW Loop 410, Suite 410
San Antonio, TX 78216
Attn: Chris Harness
Tel: (210) 225-1000 / Fax: (210) 223-9647

- (ii) In the case of the City, to:
City of Urbana, Illinois
400 South Vine Street
Urbana, IL 61801
Attn: Community Development Director
Tel: (217) 384-2439 / Fax: (217) 384-0200

Whenever any party hereto is required to deliver notices, certificates, opinions, statements or other information hereunder, such party shall do so in such number of copies as shall be reasonably specified.

Section 8.9. Successors in Interest. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respectively authorized successors, assigns and legal representatives (including successor Corporate Authorities).

Section 8.10. No Joint Venture, Agency, or Partnership Created. Nothing in this Agreement nor any actions of either of the City or the Developer shall be construed by either of the

City, the Developer or any third party to create the relationship of a partnership, agency, or joint venture between or among the City and any party being the Developer.

Section 8.11. Illinois Law; Venue. This Agreement shall be construed and interpreted under the laws of the State of Illinois. If any action or proceeding is commenced by any party to enforce any of the provisions of this Agreement, the venue for any such action or proceeding shall be in Champaign County, Illinois.

Section 8.12. No Personal Liability of Officials of City. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, officer, agent, employee or attorney of the City, in his or her individual capacity, and neither the members of the Corporate Authorities nor any official of the City shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution, delivery and performance of this Agreement.

Section 8.13. Repealer. To the extent that any ordinance, resolution, rule, order or provision of the City's Code of Ordinances 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.

Section 8.14. Term. Unless earlier terminated pursuant to the terms hereof, this Agreement shall be and remain in full force and effect until the completion of the Development Project and the reimbursement of all Reimbursement Amounts under Section 3.2 hereof; provided, however, that anything to the contrary notwithstanding, the Developer's obligations under Sections 4.4 and 4.6 of this Agreement shall be and remain in full force and effect in accordance with the express provisions of each such Section.

Section 8.15. Recordation of Agreement. Either party may record this Agreement or a Memorandum of this Agreement in the office of the Champaign County Recorder at any time following its execution and delivery by both parties.

Section 8.16. Construction of Agreement. This Agreement has been jointly negotiated by the parties and shall not be construed against a party because that party may have primarily assumed responsibility for preparation of this Agreement.

IN WITNESS WHEREOF, the City and the Developer each have caused this Agreement to be executed by their respective duly authorized officers as of the date set forth below.

**CITY OF URBANA, CHAMPAIGN COUNTY,
ILLINOIS**

By: _____
Mayor

ATTEST:

City Clerk

Date: _____

**TC-MET URBANA, LLC, a Delaware limited
liability company**

By: TC-Met Student Housing, LLC, a Delaware
limited liability company, its sole member

By: TC Student Housing, Inc., a Delaware
corporation, its managing member

By: _____
Christopher C. Harness, President

Date: _____

[Exhibits A and B, inclusive, follow this page and are integral parts of this Agreement in the context of use.]

EXHIBIT A
Design Proposal

EXHIBIT B

Legal Description of Development Project Site

The East 135 feet of Lot 1, and all of Lots 9, 11 and 12, in John W. Stipes Subdivision in the City of Urbana, Illinois, as per plat shown in Plat Book "B" at page 12, situated in Champaign County, Illinois. More commonly known as 1008 and 1010 West University, Urbana, Illinois.

Permanent Index Nos. 91-21-07-431-019 and 91-21-07-431-021

AND

Lot 10 in John W. Stipes Subdivision in the City of Urbana, Illinois, as per plat shown in Plat Book "B" at page 12, situated in Champaign County, Illinois. More commonly known as 1012 W. University, Urbana, Illinois.

Permanent Index No. 91-21-07-431-007

AND


Lot 1 except the east 135 feet, and also the south 48 feet of the west 134.62 feet thereof, in the City of Urbana, Illinois, as per plat shown in Plat Book "B" at page 12, situated in Champaign County, Illinois. More commonly known as 508 North Goodwin Avenue, Urbana, Illinois.

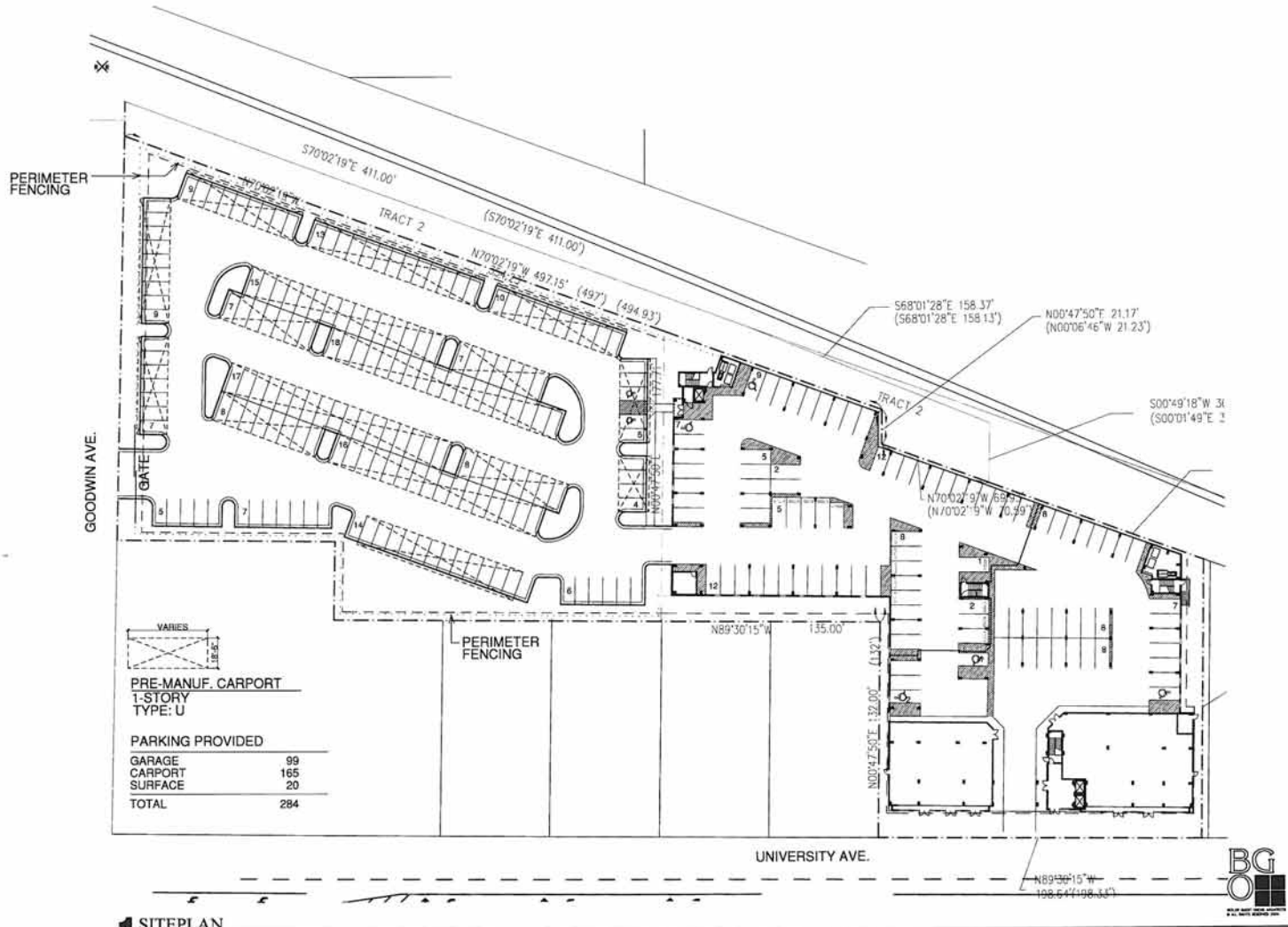
Permanent Index No. 91-21-07-431-023



CONCEPTUAL ELEVATION

NELL STREET STUDENT HOUSING
URBANA, ILLINOIS

FOR TRAMMELL CROW CO. BG
09-04-07 O 

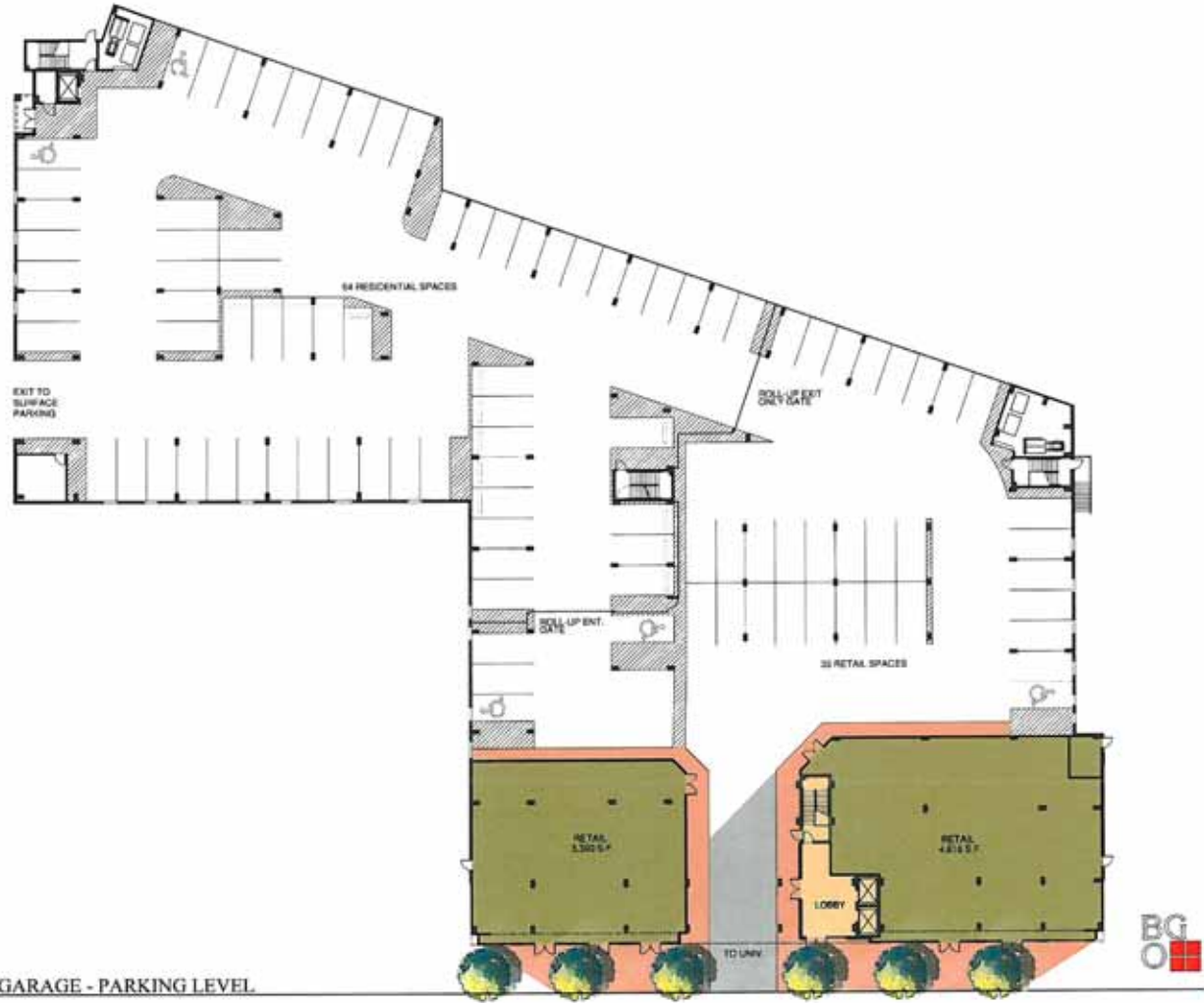


1 SITEPLAN



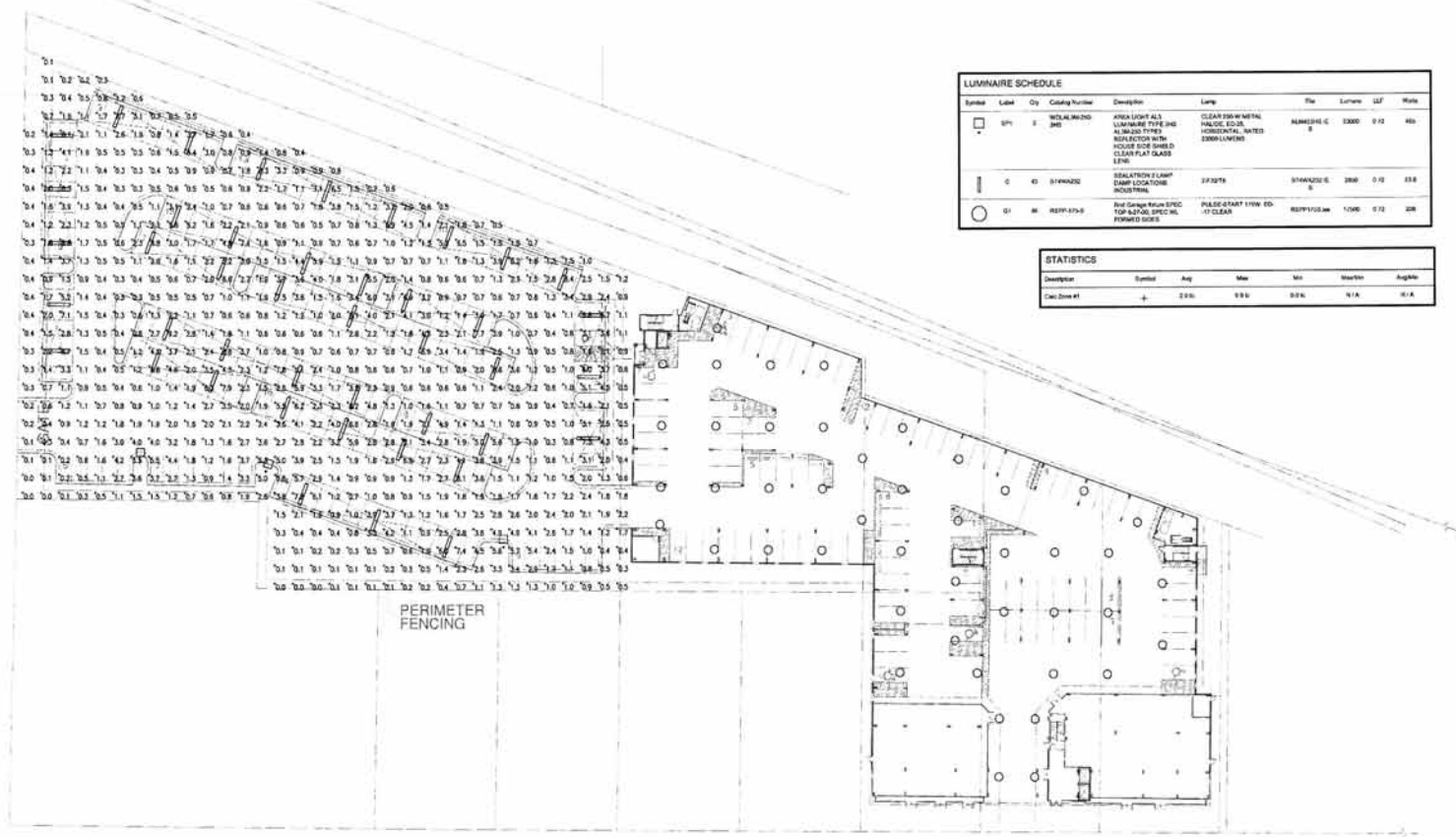
BUILDING RESIDENTIAL FIRST LEVEL. FLOORS 2-4 SIMILAR





GARAGE - PARKING LEVEL

PERIMETER FENCING



LUMINAIRE SCHEDULE

Symbol	Label	Qty	Category Number	Description	Lamp	File	Lumens	LF	Watts
□	Q1	2	900	AREA LIGHT ALL LUMINAIRE TYPE 240 ALUMINUM FINED REFLECTOR WITH HOUSER EDGE GASKET CLEAR FLAT GLASS LENS	CLEAR 800 W METAL PAROL EDGE HORIZONTAL WATER 2000 LUMENS	PARALUM C 2	13000	0.12	400
—	Q2	40	5140020	SEALATION LAMP EMEREGENCIATION INDUSTRIAL	37 2078	5140020 S	3000	0.12	400
○	Q1	40	REPP-075-0	Red Ganga Value EPIC TOP NATURAL SPEC IN FORMED SIDES	PLEASE RAY 110W ED-17 CLEAR	REPP1100-04	11000	0.12	200

STATISTICS

Description	Symbol	Qty	Max	Min	Max/min	Avg/min
Total Footcandle	+	2100	0.90	0.00	0.18	0.18

1 SITE PLAN - LIGHTING CALCULATIONS
SCALE: 1" = 30'-0"

Jordan & Skala Engineers, Inc.
 Job Number - 0730693
 1410 NORTH 90th EAST 2ND FLOOR, D 7014
 P.O. BOX 146305 - 1414777 FAX (480) 351-1414
 COPYRIGHT © 2009 JORDAN & SKALA ENGINEERS, INC.

DRAWN
REVISED

**THE STRATUM
ON UNIVERSITY**
 161 STUDENT APARTMENTS IN URBANA, ILLINOIS FOR
TRAMMELL CROW COMPANY

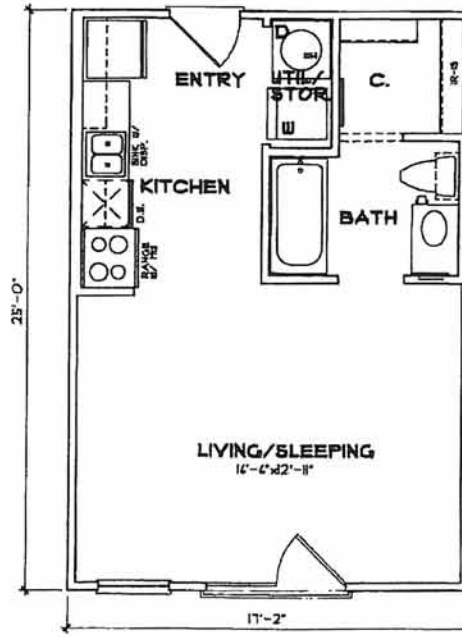
BGO
 BGO Architects, Inc.
 400 N. CENTRAL EXPWAY - SUITE 100 - MALLARD, TEXAS 75005 (214) 880-8870

DATE
01-30-08

PROJECT
05187

SHEET NUMBER
SL1.0

COPYRIGHT © BGO ARCHITECTS, INC. ALL RIGHTS RESERVED

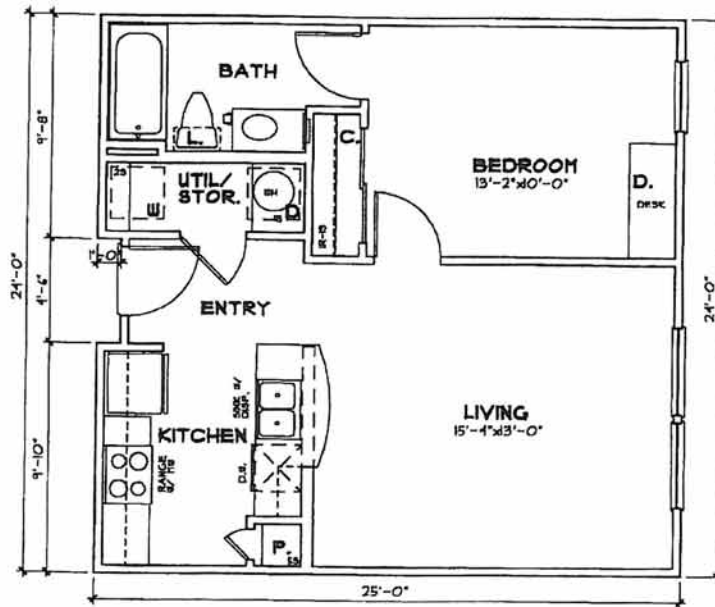


E1 EFFICIENCY
SCALE 1/4"=1'-0"

430 S.F.

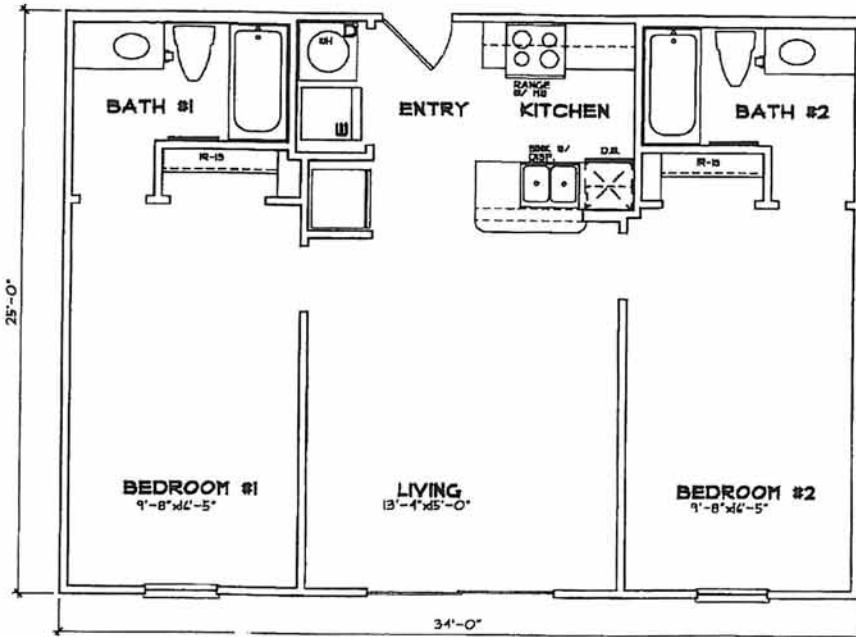
2004 - 06187
DATE - 17-JULY-00

 BRUNER, CUNY & OWENS ARCHITECTS, L.P.
 © ALL RIGHTS RESERVED



A1 ONE BEDROOM/ ONE BATH 596 S.F.
 SCALE 1/4"=1'-0"

BG
OG
 JOB - 0877
 DATE - 17-JULY-03
 BRIGGS GUNBY GYRENS ARCHITECTS, L.P.
 © ALL RIGHTS RESERVED

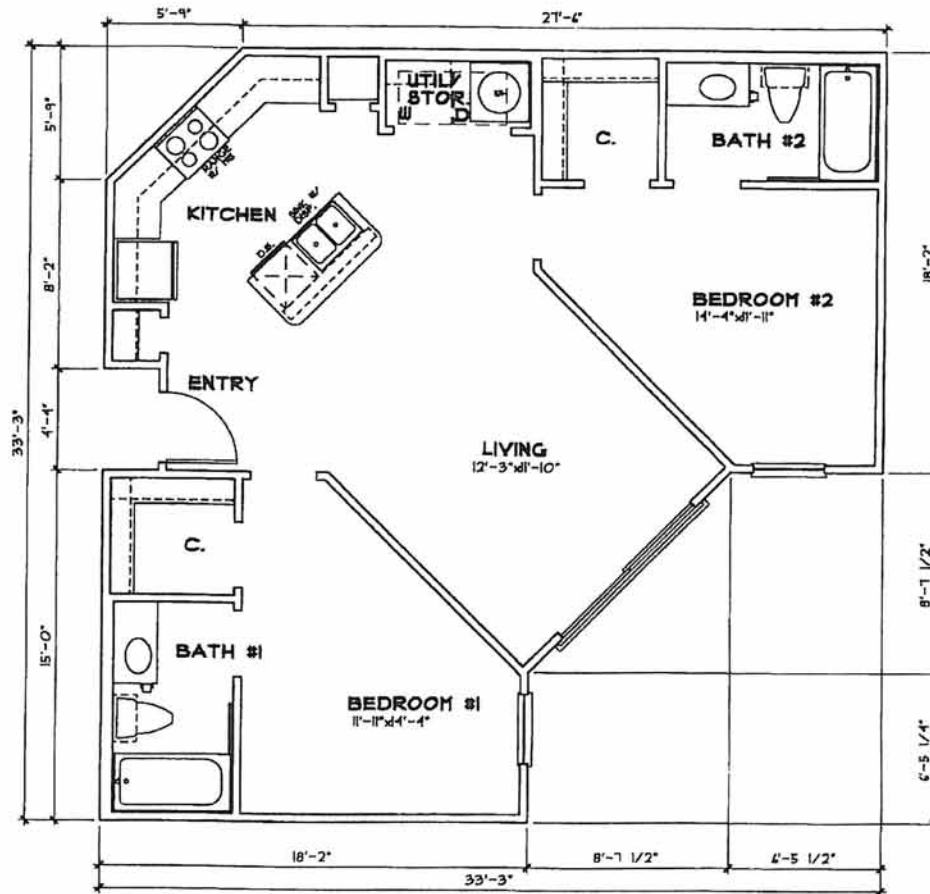


B1 TWO BEDROOM/ TWO BATH 850 S.F.
 SCALE 1/4"=1'-0"

BG
O

JOHN - OHSW
 DATE - 77-JULY-05

BOLEK GURBY OWENS ARCHITECTS, L.P.
 © ALL RIGHTS RESERVED



B2 TWO BEDROOM/ TWO BATH 889 S.F.
 SCALE 1/4"=1'-0"

BG
OO
 JOB - 0887
 DATE - 17-JULY-05
 SHELBY GUEST QUARTS ARCHITECTS, L.P.
 © ALL RIGHTS RESERVED