

**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE VILLAGE COUNCIL MEETING  
OCTOBER 6, 2009 AGENDA**

<b>SUBJECT:</b>	<b>TYPE:</b>	<b>SUBMITTED BY:</b>
First Amendment to the Redevelopment Agreement for Acadia on the Green	<ul style="list-style-type: none"> <li>✓ Resolution</li> <li>✓ Ordinance</li> <li>Motion</li> <li>Discussion Only</li> </ul>	David Fieldman Village Manager

**SYNOPSIS**

An ordinance and resolutions have been prepared for an amendment to the redevelopment agreement between the Village and Acadia OTG LLC. The amendment would

- provide a credit from the purchase price for the Phase III property for improvements made by the developer above and beyond the requirements of the redevelopment agreement
- extend the schedule for the developer’s purchase of the final phase of the development
- accept certain public improvements and reduce the letter of credit posted by the developer
- accept a grant of easement for public alley purposes
- grant an easement to the developer for the maintenance of the village green space
- approve the lease of first floor tenant space to ATI physical therapy and fitness center

**STRATEGIC PLAN ALIGNMENT**

The Five Year Plan and Goals for 2008-2013 identified *Authentic Downtown – The Heart of Our Community* and *Strong Diverse Local Economy*.

**FISCAL IMPACT**

The addendum would allow for a credit on the purchase price of the property at 5117 Main Street in the amount of \$25,000 for specific improvements made by the developer above and beyond the improvements required to be constructed per the terms of the redevelopment agreement. With the application Acadia OTG LLC would pay \$461,000 for this property. The funds would be deposited in the Downtown Tax Increment Financing fund.

**UPDATE & RECOMMENDATION**

This item was discussed at the September 8, 2009 workshop. During that meeting, the Village Council requested additional information related to the item from the petitioner. Please review the attached letter from the petitioner for additional information pertaining to this item.

Staff recommends approval on the October 6, 2009 active agenda.

**BACKGROUND**

In 2005 the Village and Acadia OTG LLC executed a redevelopment agreement for the Acadia on the Green development located at the southeast corner of Main Street and Burlington Avenue.

*Credit for the Purchase Price of the Phase III Property*

The developer has substantially completed the development. In addition to completing the improvements required by the redevelopment agreement, the developer constructed a retaining wall near a ComEd utility appurtenance and paved the private portions of the alley located west of the development behind the

Heritage House Florist property. The retaining wall was required for the Village to complete the burial of the overhead utilities. The paving of the private portion of the alley was not required by the redevelopment agreement, however, the Village and developer were working cooperatively with the alley owners to pave this area to improve its appearance and function. These improvements cost the developer approximately \$25,000 (\$10,000 for the retaining wall and \$15,000 for the alley paving). The amendment states that the Village would provide a credit to the developer for the purchase of the property at 5117 Main Street in the amount of \$25,000 to compensate the developer for the construction of the retaining wall and the paving of the private portions of the alley.

*Schedule for Purchasing the Phase III Property*

The redevelopment agreement states that the developer must purchase the property located at 5117 Main Street no later than November 2009. The addendum would extend the purchase date to November 2010.

*Acceptance of Public Improvements*

The redevelopment agreement requires the developer to complete all public improvements associated with the development. To date, the developer has completed all elements of the public improvements except for portions of the street lighting system. The amendment accepts the public improvements completed to date, reduces the public improvement letter of credit accordingly and requires that the remaining improvements to the street lighting system be completed within 60 days. A separate resolution has been prepared authorizing acceptance of public improvements and reducing the letter of credit.

*Acceptance of a Grant of Easement*

There is an existing alley located west and south of building 1, adjacent to the Heritage House Florist property. This alley is owned by the developer. The amendment requires the developer to grant an easement for public alley purposes over a portion of the alley. The easement is intended to improve the functionality of the alley.

*Granting an Easement*

Pursuant to Section 9.7 of the redevelopment agreement, the Village shall grant an easement to the developer for the maintenance of the village green area near the southeast corner of Mochel and Burlington. The easement would be granted as part of this action. A separate resolution has been prepared granting this easement.

*Approval of the Lease of First Floor Space to ATI Physical Therapy and Fitness Center*

The redevelopment agreement states that unless the Village approves otherwise in advance in writing, not less than 90 percent of all leased first floor area shall be leased to retail sales tax producing tenants. The developer has requested that approximately 10,000 square feet of tenant space in Building 1 fronting on Mochel Drive and Burlington Avenue be leased to ATI Physical Therapy and Fitness Center. The proposed operations are described in the attached letter from ATI. The term of the lease would be 10 years with two five-year options to extend the lease. When evaluating the request, Village staff considered the impact of ATI on equalized assessed valuation, sales tax revenue, tenant mix and parking.

A comparison of the current and proposed tenant mix is provided below:

Tenant Mix	Current		Proposed	
	Square Footage	% of Total	Square Footage	% of Total
<b>Retail</b>	13,378	47%	13,378	47%
<b>Non-Retail</b>	1,846	7%	11,846	42%
<b>Vacant</b>	13,078	46%	3,078	11%
<b>TOTAL</b>	28,302	100%	28,302	100%

The primary source of revenue for the Downtown Tax Increment Financing District is property tax receipts. The amount of property tax revenue received is based on the Equalized Assessed Value of the properties located within the district. The 10,000 square foot tenant space is expected to generate approximately \$50,000 per year in property tax revenue.

If ATI occupies the tenant space, very little retail sales tax would be generated. Typical retail tenants in the downtown generate about \$150 per square foot in annual retail sales. If the space were occupied by retail tenants, the Village would expect approximately \$26,250 per year in annual sales tax revenue.

In some cases, non-retail tenants tend to attract other non-retail tenants within the same or nearby tenant spaces. Since the redevelopment agreement states that the Village must approve non retail sales tax producing uses in excess of 10% of the tenant space, the Village would be able to individually consider all non retail sales tax producing tenants that would like to occupy Acadia on the Green.

ATI has indicated that their customers will likely be physical therapy patients referred to ATI from physicians throughout the community, people residing in or around the downtown area, commuters that park in the nearby parking deck and employees of the downtown businesses. These customers are likely to patronize other downtown businesses during their trip to ATI or other separate trips to the downtown area. These customers are not likely to negatively impact other downtown businesses.

The expected parking demand for ATI is the same as the parking demand for general retail uses. Both uses require approximately 3.5 spaces per thousand square feet. Since the parking demand for ATI is the same as general retailers, there should be no negative impact on parking within the downtown system.

#### **ATTACHMENTS**

Resolution Accepting Public Improvements

**VILLAGE OF DOWNERS GROVE**  
**COUNCIL ACTION SUMMARY**

**INITIATED:** Village Manager      **DATE:** September 15, 2009  
(Name)

**RECOMMENDATION FROM:** \_\_\_\_\_ **FILE REF:** \_\_\_\_\_  
(Board or Department)

**NATURE OF ACTION:**

- Ordinance
- Resolution
- Motion
- Other

**STEPS NEEDED TO IMPLEMENT ACTION:**

Motion to Adopt "A RESOLUTION AUTHORIZING ACCEPTANCE OF PUBLIC IMPROVEMENTS - ACADIA ON THE GREEN SUBDIVISION", as presented.

**SUMMARY OF ITEM:**

Adoption of this ordinance shall authorize the acceptance of certain public improvements for the Acadia on the Green Subdivision.

**RECORD OF ACTION TAKEN:**

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING ACCEPTANCE OF  
PUBLIC IMPROVEMENTS – ACADIA on the GREEN SUBDIVISION**

WHEREAS, The Village Council has previously approved final plans for the Acadia on the Green Subdivision; and,

WHEREAS, Michael D. Millette, Village Engineer, has recommended acceptance of a portion of these public improvements with certain conditions, as well as modifications of the existing security.

NOW, THEREFORE, BE IT RESOLVED by the Village Council of The Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the Village hereby accepts a portion of those municipal public improvements constructed as part of the Acadia on the Green Subdivision generally located north of Curtiss Street and east of Main Street, in accordance with the approved plans and specifications, as more accurately depicted on attached Exhibit A.
2. That the Construction Security letters of credit, in the original amounts of \$946,000.00 and \$350,000.00, submitted by New England Builders may be released provided a new or amended Letter of Credit in the amount of \$126,250.53 is furnished to ensure the completion of the remaining public improvements and guarantee the maintenance of the Public Improvements in accordance with Section 6.8 of the Redevelopment Agreement, dated September 29, 2005.
3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.
4. That all resolutions or parts of resolutions in conflict with the provisions of the Resolution are hereby repealed.
5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

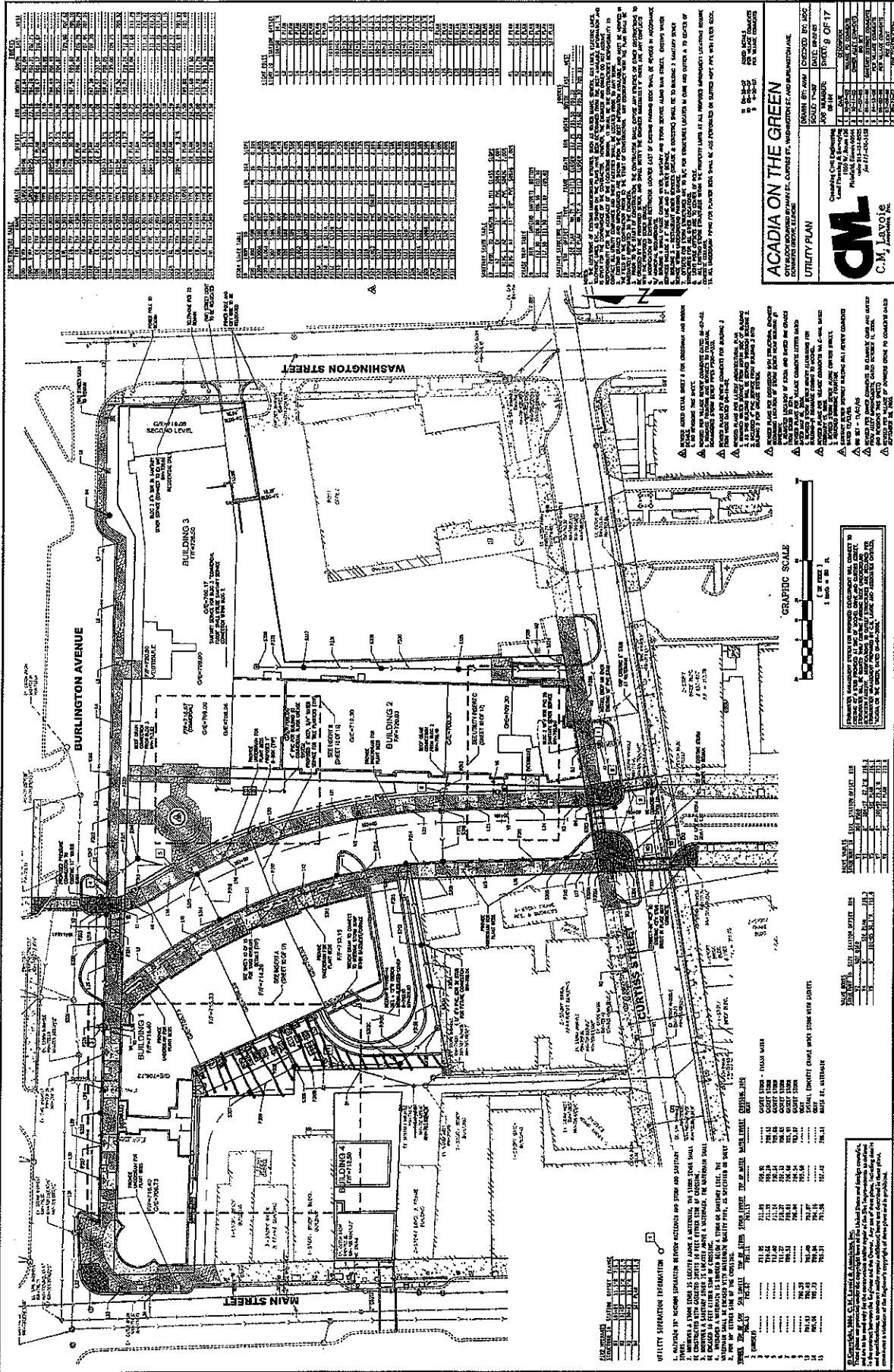
\_\_\_\_\_  
Mayor

Passed:

Published:

Attest: \_\_\_\_\_

Village Clerk



C.M. LAVOIE & ASSOCIATES, INC.  
1050 STATE ROUTE 126  
PLAINFIELD, ILLINOIS 60544

FINAL ENGINEERING  
ENGINEER'S OPINION OF PROBABLE COST  
LOC REDUCTION # 1 - PUBLIC IMPROVEMENTS

PROJECT ACADIA ON THE GREEN  
LOCATION NORTH SIDE OF CURTISS, BETWEEN MAIN AND WASHINGTON  
DOWNERS GROVE, ILLINOIS  
CLIENT NAME ACADIA OTG, LLC  
4927 Main Street  
Skokie, IL 60077

PROJECT MANAGER: MDC  
DATE: 8/11/2009  
PROJECT NUMBER: 05-164  
PER PLANS LAST REVISED: 11/7/2005

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT	PERCENT COMPLETE	AMOUNT REMAINING
<b>EARTHWORK / REMOVAL</b>							
1	FULL DEPTH BITUMINOUS PAVEMENT REMOVAL	4,167	SY	\$10.00	\$41,670.00	100%	\$ -
2	FULL DEPTH CONCRETE PAVEMENT	419	SY	\$10.00	\$4,190.00	100%	\$ -
3	CURB AND GUTTER REMOVAL	1,840	LF	\$5.00	\$7,700.00	100%	\$ -
4	SIDEWALK REMOVAL	12,492	SF	\$5.00	\$62,460.00	100%	\$ -
5	STORM SEWER REMOVAL (INCLUDES STRUCTURES)	459	LF	\$12.00	\$5,508.00	100%	\$ -
6	STREET LIGHT REMOVAL (DOES NOT INCLUDE COM ED RELOCATION)	13	EA	\$750.00	\$9,750.00	100%	\$ -
7	MISCELLANEOUS REMOVAL (BOLLARDS, PLANTERS, ETC...)	1	LS	\$10,000.00	\$10,000.00	100%	\$ -
8	PUBLIC UTILITY RELOCATION / REMOVAL	1	LS	\$120,000.00	\$120,000.00	100%	\$ -
9	BUILDING REMOVAL	1	LS	\$60,000.00	\$60,000.00	100%	\$ -
<b>EARTHWORK / REMOVAL SUBTOTAL</b>					<b>\$311,278.00</b>		<b>\$ -</b>
<b>PAVEMENT</b>							
10	1 1/2 INCH BITUMINOUS SURFACE COURSE, CL I, TYPE 3	262	TON	\$52.00	\$13,626.18	100%	\$ -
11	PRIME COAT (0.10 GAL / SY)	305	GAL	\$1.20	\$365.64	100%	\$ -
12	2 INCH BITUMINOUS BINDER COURSE, CL I, TYPE 2	350	TON	\$48.00	\$16,819.44	100%	\$ -
13	PRIME COAT (0.25 GAL / SY)	762	GAL	\$1.20	\$914.10	100%	\$ -
14	6 INCH BITUMINOUS BASE COURSE, CL I, TYPE 1	1,051	TON	\$45.00	\$47,304.68	100%	\$ -
15	4 INCH COMPACTED GRANULAR SUBBASE, TY B (CA-6)	660	TON	\$13.50	\$8,911.58	100%	\$ -
16	B6.12 CURB AND GUTTER	1,948	LF	\$14.50	\$28,246.00	100%	\$ -
17	PCC CONCRETE PAVEMENT	337	SY	\$45.00	\$15,145.00	100%	\$ -
18	PCC WALK, 5 INCHES THICK	14,657	SF	\$3.50	\$51,299.50	100%	\$ -
19	PAVEMENT MARKINGS	2,479	LF	\$0.75	\$1,859.25	100%	\$ -
<b>PAVEMENT SUBTOTAL</b>					<b>\$182,632.12</b>		<b>\$ -</b>
<b>WATERMAIN</b>							
20	8-INCH DIA. CL 52 WATER MAIN	260	LF	\$35.00	\$9,111.20	100%	\$ -
21	CONNECTION TO EXISTING 8 INCH DIWM	4	EA	\$2,500.00	\$10,000.00	100%	\$ -
22	1-1/2 INCH BUFFALO BOX	1	EA	\$600.00	\$600.00	100%	\$ -
23	3/4 INCH BUFFALO BOX	1	EA	\$350.00	\$350.00	100%	\$ -
24	8 INCH VALVE AND VAULT	1	EA	\$2,200.00	\$2,200.00	100%	\$ -
25	8-INCH PRESSURE CONNECTION AND VAULT	4	EA	\$4,800.00	\$19,200.00	100%	\$ -
26	FIRE HYDRANT W/ AUXILIARY VALVE	4	EA	\$2,500.00	\$10,000.00	100%	\$ -
27	TESTING AND CHLORINATION	1	LS	\$5,000.00	\$5,000.00	100%	\$ -
28	TRENCH BACKFILL (CA-6)	130	CY	\$22.00	\$2,860.00	100%	\$ -
<b>WATERMAIN SUBTOTAL</b>					<b>\$59,321.20</b>		<b>\$ -</b>
<b>SANITARY SEWER</b>							
29	8-INCH DIA. PVC SDR-26 SANITARY SEWER	79	LF	\$20.00	\$1,580.00	100%	\$ -
30	48 INCH MANHOLE, TY A W/ FRAME AND CLOSED LID	3	EA	\$2,450.00	\$7,350.00	100%	\$ -
31	TRENCH BACKFILL	50	CY	\$22.00	\$1,100.00	100%	\$ -
32	TESTING	1	LS	\$1,500.00	\$1,500.00	100%	\$ -
<b>SANITARY SEWER SUBTOTAL</b>					<b>\$10,030.00</b>		<b>\$ -</b>
<b>STORM SEWER</b>							
33	36-INCH DIA. RCP STORM SEWER	61	LF	\$50.00	\$3,050.00	100%	\$ -
34	24-INCH DIA. RCP STORM SEWER	624	LF	\$40.00	\$24,960.00	100%	\$ -
35	15-INCH DIA. RCP STORM SEWER	210	LF	\$25.00	\$5,250.00	100%	\$ -
36	12-INCH DIA. RCP STORM SEWER	339	LF	\$22.00	\$7,458.00	100%	\$ -
37	6" PVC STORM DRAIN FOR FUTURE FOUNTAIN	21	LF	\$20.00	\$420.00	100%	\$ -
38	48-INCH CATCH BASIN, TY A W/ FRAME AND GRATE	16	EA	\$2,100.00	\$33,600.00	100%	\$ -
39	60-INCH MANHOLE, TY A W/ FRAME AND GRATE	1	EA	\$2,600.00	\$2,600.00	100%	\$ -
40	24-INCH INLET, TY A W/ FRAME AND GRATE	5	EA	\$750.00	\$3,750.00	100%	\$ -
41	48-INCH MANHOLE TY A W/FRAME AND GRATE	1	EA	\$2,000.00	\$2,000.00	100%	\$ -
42	REVISIONS TO PARKING DECK RESTRICTOR STRUCTURE	1	LS	\$5,000.00	\$5,000.00	100%	\$ -
43	REMOVE AND REPLACE PAVEMENT IN CURTISS STREET	1	LS	\$10,000.00	\$10,000.00	100%	\$ -
44	TRENCH BACKFILL	1,040	CY	\$22.00	\$22,880.00	100%	\$ -
<b>STORM SEWER SUBTOTAL</b>					<b>\$120,968.00</b>		<b>\$ -</b>
<b>EROSION CONTROL / LANDSCAPING</b>							
45	BARRIER FILTER	16	EA	\$11.00	\$176.00	100%	\$ -
46	TREES	22	EA	\$500.00	\$11,000.00	100%	\$ -
47	TOPSOIL RESPREAD AND SODDING	3,650	SY	\$4.00	\$14,600.00	100%	\$ -
<b>EROSION CONTROL / LANDSCAPING SUBTOTAL</b>					<b>\$25,776.00</b>		<b>\$ -</b>
<b>LIGHTING</b>							
48	STREET LIGHTS AND APPURTENANCES	25	EA	\$5,000.00	\$125,000.00	68%	\$ 40,000.00
49	CONDUIT AND WIRING	1	LS	\$12,500.00	\$12,500.00	100%	\$ -
<b>LIGHTING SUBTOTAL</b>					<b>\$137,500.00</b>		<b>\$ 40,000.00</b>
<b>MISCELLANEOUS</b>							
50	TRAFFIC CONTROL	1	LS	\$5,000.00	\$10,000.00	100%	\$ -
51	MATERIAL TESTING	1	LS	\$2,500.00	\$5,000.00	100%	\$ -
<b>MISCELLANEOUS SUBTOTAL</b>					<b>\$15,000.00</b>		<b>\$ -</b>

PROJECT TOTAL:	\$862,505.32
ORIGINAL LETTER OF CREDIT (110%)	\$948,755.86
WORK COMPLETE:	\$822,505.32
WORK INCOMPLETE:	\$40,000.00
10% MAINTENANCE ON COMPLETED WORK	\$82,250.53
LETTER OF CREDIT FOR WORK INCOMPLETE (110%):	\$44,000.00
REVISED LETTER OF CREDIT AMOUNT	\$126,250.53



*M.D.C.*