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REDEVELOPMENT AGREEMENT

CHICAGO OXFORD ASSOCIATES, L.P.
REDEVELOPMENT AGREEMENT

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BY AND BETWEEN

THE CITY OF CHICAGO

AND

CHICAGO OXFORD ASSOCIATES, L.P.
a California Limited Partnership

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

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**CHICAGO OXFORD ASSOCIATES, L.P.
REDEVELOPMENT AGREEMENT
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**CHICAGO OXFORD ASSOCIATES, L.P.
REDEVELOPMENT AGREEMENT
LIST OF EXHIBITS**

Exhibit A	*Redevelopment Area Legal Description
Exhibit B	*Legal Description of Property Acquired
Exhibit C	*TIF-Funded Improvements
Exhibit D	Redevelopment Plan
Exhibit E	Construction Contract
Exhibit F	[RESERVED]
Exhibit G	*Permitted Liens
Exhibit H-1	*Project Budget and Construction Budget
Exhibit H-2	MBE/WBE Budget
Exhibit H-3	*Actual Construction Costs Report
Exhibit I	Previous Expenditures
Exhibit J	Opinion of Developer's Counsel
Exhibit K	[RESERVED]
Exhibit L	City Mortgage (Junior Leasehold Mortgage)
Exhibit M	Public Benefits Program
Exhibit N	Job Training and Job Readiness Program
Exhibit O	Form of Subordination Agreement
Exhibit P	Design Changes

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

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

**CHICAGO OXFORD ASSOCIATES, L.P.
REDEVELOPMENT AGREEMENT**

This Chicago Oxford Associates, L.P. Redevelopment Agreement (the "**Agreement**") is made as of this 20th day of October, 1999, by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Planning and Development ("**DPD**"), and Chicago Oxford Associates, L.P., a California limited partnership, qualified to do business in Illinois (the "**Developer**").

RECITALS:

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

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"Act"), to finance projects that eradicate blighted conditions through the use of tax increment allocation financing for redevelopment projects.

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

D. The Project: The Developer has entered into that certain lease dated as of December 31, 1996 with American National Bank and Trust Company of Chicago as Trustee under a Trust Agreement dated July 1, 1965 and known as Trust Number 21825, as the same may have heretofore been amended (the "**Lease**") for an initial term ending March 31, 2032 for certain property and improvements located within the Redevelopment Area, commonly known as 225 North Wabash Avenue, Chicago, Illinois 60602 and legally described in Exhibit B hereto (the "**Property**"), and within the time frames set forth in Section 3.01 hereof, shall: (i) redevelop the building (the "**Building**") and adjacent garage (the "**Garage**") located on the Property by renovating the former Oxford House Hotel, including building facade improvements, resulting in the development of a first-class hotel to be known as the Hotel Monaco (the "**Hotel**") consisting of approximately 191 guest rooms, the creation of a new, high-quality sit-down restaurant, 5,000 square feet of meeting space, and the adjacent garage with 88 parking spaces; and (ii) construct certain public infrastructure improvements, including sidewalk vaults, and landscape improvements in the surrounding public way (the "**Public Improvements**"). The redevelopment of the Building and related Garage for operation of the Hotel on the Property as described above and related Public Improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth in Exhibit C) are collectively referred to herein as the "**Project**." After completion of the Project, Developer will operate the Hotel pursuant to its rights under the Lease. The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago Central Loop Tax Increment Financing Redevelopment Plan and Project dated January 13, 1997 (the "**Redevelopment Plan**") attached hereto as Exhibit D, as the same may be amended or revised from time-to-time, provided, however, that no such amendment or revision shall:

- (i) alter the use of the Property for the purposes contemplated by this Agreement; or
- (ii) substantially alter the schedule for completion of the Project; or

(iii) expressly require Developer to take any action or imposes on Developer an obligation that results in a material increase in the overall development costs of the Project or Developer's share thereof.

F. City Financing: The City agrees to use, in the amount set forth in Section 4.03 hereof: (i) a portion of the proceeds (the "**Bond Proceeds**") of its Tax Increment Allocation Bonds (Central Loop Redevelopment Project) Series 1997 (specifically the taxable Series thereof) (the "**Series 1997 Bonds**") issued pursuant to an ordinance adopted by the City Council on July 30, 1997 (the "**Bond Ordinance**"), or (ii) Incremental Taxes (as defined below) in the 1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund (as defined below), to pay for or reimburse the Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement.

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

AGREEMENT:

ARTICLE ONE: INCORPORATION OF RECITALS

The recitals set forth above are hereby incorporated into this Agreement by reference and made a part hereof.

ARTICLE TWO: DEFINITIONS

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

"Actual Construction Costs" has the meaning set forth for such phrase in Section 4.04(a) hereof.

"Actual Residents of the City" has the meaning set forth for such phrase in Section 10.02 hereof.

"Affiliate" means any individual, corporation, partner, partnership, trust or entity which owns or controls, or is owned or controlled, or is under common ownership or control with, in whole or in part, by Developer or any successor to Developer or its respective subsidiary(ies) or parent(s).

"Available Project Funds" has the meaning for such phrase set forth in Section 5.16.

"**Bonds**" has the meaning set forth for such term in Section 8.05 hereof.

"**Bond Ordinance**" has the meaning set forth in the Recitals hereof.

"**Business Day**" means any day other than Saturday, Sunday or a legal holiday in the State.

"**Certificate**" means the Certificate of Completion of Construction described in Section 7.01 hereof.

"**Change Order**" means any amendment modification to after the Closing Date (as defined below) to the Plans and Specifications or the Project Budget (all as defined below) and described in Section 3.02, Section 3.03 and Section 3.04, respectively.

"**City Contract**" has the meaning set forth in Section 8.01(l) hereof.

"**City Fee**" means the fee described in Section 4.05(b) hereof.

"**City Funds**" means the funds described in Section 4.03(b) hereof.

"**City Mortgage**" has the meaning set forth in Section 5.17 hereof.

"**Closing Date**" means the date of execution and delivery of this Agreement by all parties hereto.

"**Construction Budget**" means the budget attached hereto as part of Exhibit H-1.

"**Construction Contract**" means that certain contract, substantially in the form attached hereto as Exhibit E, entered into between the Developer and the General Contractor (as defined below) providing for construction of the Project.

"**Corporation Counsel**" means the City's Office of Corporation Counsel.

"**Department**" has the meaning set forth in Section 8.09 hereof.

"**Employer(s)**" has the meaning set forth in Section 10.01 hereof.

"**Environmental Laws**" means any and all Federal, State or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C.

Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago (as defined below).

"Equity" means funds of the Developer (other than funds derived from Lender Financing (as defined below)) irrevocably available for the Project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.06 (Cost Overruns).

"Event of Default" has the meaning set forth in Section 15.01 hereof.

"Existing Mortgages" has the meaning set forth in Section 16.01 hereof.

"Financial Statements" means compiled financial statements of the Developer as of December 31st of the immediately preceding year containing income and expense statements and a balance sheet, prepared by Developer in accordance with generally accepted accounting principles consistently applied, and certified by the chief financial officer of Developer as fairly and accurately presenting the information contained therein.

"Full-Time Equivalents" or **"FT"** means an employee or employees of the Developer (or employees of the operator of the Hotel), as evidenced by payroll records, actually working at the Hotel for an average of at least 32 hours a week.

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

"Governmental Charge" has the meaning set forth in Section 8.19 hereof.

"Green Machine" has the meaning set forth in Section 5.20 hereof.

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

"Human Rights Ordinance" has the meaning set forth in Section 10.01 hereof.

"In Balance" has the meaning for such phrase set forth in Section 5.16.

"Indemnitee" and **"Indemnites"** have the meanings set forth in Section 13.01 hereof.

"Incremental Taxes" means such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to, and when collected are paid to, the Treasurer of the City for deposit by the Treasurer into the 1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund (as defined below) established to pay Redevelopment Project Costs (as defined below) and obligations incurred in the payment thereof.

"Job Training and Job Readiness Program" has the meaning set forth in Section 8.22 hereof.

"Lender Financing" means funds borrowed by the Developer from lenders and irrevocably available to pay for costs of the Project, in the amount set forth in Section 4.01 hereof, and such other amounts as may be borrowed for other purposes after the issuance of the Certificate.

"MBE(s)" means a business identified in the Directory of Certified Minority Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a minority-owned business enterprise.

"MBE/WBE Budget" means the budget attached hereto as Exhibit H-2.

"MBE/WBE Program" has the meaning set forth in Section 10.03 hereof.

"MOPD" means the Mayor's Office for People with Disabilities as set forth in Section 3.14.

"Mortgaged Property" has the meaning set for such term as defined in the City Mortgage (Junior Leasehold Mortgage) of even date with this Agreement.

"Municipal Code" means the Municipal Code of the City of Chicago as presently in effect and as hereafter amended from time-to-time.

"New Mortgage" has the meaning set forth in Section 16.01 hereof.

"1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund" means the special tax allocation fund created by the City into which the Incremental Taxes will be deposited.

"Non-Governmental Charges" means all non-governmental charges, liens, claims, or encumbrances relating to the Developer, the Property or the Project.

"Occupancy Level" has the meaning set forth in Section 8.06 hereof.

"Part-Time Employee" or **"PT"** means an employee or employees of the Developer (or employees of the operator of the Hotel).

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

"Permitted Mortgage" has the meaning set forth in Section 16.01 hereof.

"Plans and Specifications" means final construction documents containing a site plan and working drawings and specifications for the Project and includes landscaping plans, signage plans, and all change orders implemented prior to the Closing Date.

"Prior Expenditure(s)" has the meaning set forth in Section 4.05(a) hereof.

"Project Budget" means the budget attached hereto as Exhibit H-1, showing the total cost of the Project by line item, as furnished by the Developer to DPD, in accordance with Section 3.03 hereof.

"Public Benefits Program" has the meaning set forth in Section 8.20 hereof.

"Redevelopment Project Costs" means redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act, as the same may be amended from time to time, that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

"Repayment Obligation" has the meaning set forth in Section 5.17 hereof.

"Survey" means the plat of survey dated May 16, 1997 prepared by a surveyor registered in the State, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and any updates thereof to reflect improvements to the Property in connection with the redevelopment of the Building and renovation of the Hotel and related improvements as required by any lender(s) providing Lender Financing).

"Term of the Agreement" means the period of time commencing on the Closing Date and ending on the date on which the Redevelopment Area is no longer in effect, but in no event later than June 19, 2007, unless the Agreement is earlier terminated pursuant to the terms hereof.

"TIF-Funded Improvements" means those improvements of the Project which: (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of City Funds, subject to the terms of this Agreement.

"Title Company" means Chicago Title and Trust Company.

"Title Policy" shall mean a leasehold title insurance policy in the most recently revised ALTA or equivalent form, issued by the Title Company, showing the Trust as fee owner of the Property and the Developer as the insured of the leasehold interest in the Property pursuant to the

Lease, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to covenants running with the land.

"**Trust**" means the trust created under Trust Agreement dated July 1, 1965 and known as Trust No. 21825, and of which American National Bank and Trust Company of Chicago is the trustee.

"**WARN Act**" means the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

"**WBE(s)**" means a business identified in the Directory of Certified Women Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a women-owned business enterprise.

ARTICLE THREE: THE PROJECT

3.01 **The Project.** With respect to the Building and Garage, the Developer has commenced the renovation of the Hotel, pursuant to the Plans and Specifications. The Developer shall have commenced the Public Improvements, pursuant to the Plans and Specifications, no later than the Closing Date hereof. The Developer shall, pursuant to the Plans and Specifications: (i) complete the renovation of the Hotel and conduct business operations therein no later than March, 1999 (except for the bars and restaurant in the Hotel, which shall be completed no later than March, 1999); (ii) complete the Public Improvements no later than March, 1999, and (iii) complete certain additional finish work and landscaping, as described in Exhibit P hereto, no later than the date set forth in Exhibit P hereto.

3.02 **Plans and Specifications.** The Developer has delivered the Plans and Specifications to DPD and DPD has approved them. After such initial approval, subsequent proposed changes to the Plans and Specifications shall be submitted to DPD as a Change Order pursuant to Section 3.04 hereof. The Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable Federal, State and local laws, ordinances and regulations. The Developer shall submit all necessary documents to the City's Department of Buildings, Department of Transportation, and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 **Project Budget.** The Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project (inclusive of certain start-up operating costs) in the amount of \$27,500,000, inclusive of a Construction Budget of \$25,204,000. The Developer hereby certifies to the City that: (a) the City Funds (as defined below), together with Lender Financing and Equity, shall be sufficient to pay for all Project costs; and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DPD

certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

3.04 Change Orders.

(a) Prior to the Closing Date. Change orders entered into by Developer prior to the Closing Date are included within the definition of Plans and Specifications, and will be approved by DPD as a part of its approval required under Section 5.02 (Approval of Plans and Specifications).

(b) Material Changes. Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DPD concurrently with the progress reports described in Section 3.07 hereof.

(c) Dollar Limitations. Notwithstanding anything to the contrary in this Section 3.04, Change Orders costing over \$50,000 each require DPD's prior written approval. Notwithstanding anything to the contrary in this Section 3.04, Change Orders costing less than Fifty Thousand Dollars (\$50,000.00) each, to an aggregate amount of Fifty Thousand Dollars (\$50,000.00), do not require DPD's prior written approval as set forth in this Section 3.04, but DPD shall be notified in writing of all such Change Orders concurrently with the progress reports described in Section 3.07 hereof, and the Developer, in connection with such notice, shall identify to DPD the source of funding therefor.

(d) Prior Written Approval for Project Changes. Any Change Orders relating to any of the following must be submitted by the Developer to DPD for DPD's prior written approval:

- (1) a reduction in the aggregate square footage of the Project;
- (2) a change of the use of the Property to a use other than as a Hotel; or
- (3) a delay in the completion of any portion of the Project.

(e) No Work. The Developer shall not authorize or permit the performance of any work relating to any Change Order requiring DPD's prior written approval or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval. The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect.

(f) No Increase in City Funds. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement, or to provide any other additional assistance to the Developer.

3.05 DPD Approval. Any approval granted by DPD of the Plans and Specifications and the Change Orders is for the purposes of this Agreement only, and any such approval does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any such approval by DPD pursuant

to this Agreement constitute approval of the quality, structural soundness, safety, habitability or investment quality of the Property or the Project. Developer will not make any verbal or written representation to anyone to the contrary.

3.06 **Other Approvals.** Any DPD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. The Developer did not commence construction of the Project until the Developer obtained all necessary permits and approvals (other than DPD's approval of the Plans and Specifications as required herein); provided, however, that with respect to portions of the Project with respect to which construction work has begun prior to the Closing Date, the Developer shall provide evidence of compliance with this section prior to the Closing Date.

3.07 **Progress Reports and Survey Updates.** Beginning on the Closing Date, and ending on the date of issuance of a Certificate, on or before the 15th day of each month, the Developer shall provide DPD with written monthly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section 3.04). The Developer shall provide three (3) copies of an updated Survey to DPD if any updated Survey is provided to any lender providing Lender Financing.

3.08 **Inspecting Agent or Architect.** An independent agent or architect (other than the Developer's architect) approved by DPD to act as the inspecting agent or architect for the Project, and any fees and expenses connected with its work or incurred by such independent agent or architect, shall be solely for the Developer's account and shall be promptly paid by Developer; provided, however, that any agent or architect selected by any lender providing Lender Financing, as heretofore disclosed to the City, is hereby accepted by DPD as the inspecting agent or architect. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing written certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project.

3.09 **Barricades.** Prior to commencing any construction requiring barricades, the Developer has installed a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable Federal, State or City laws, ordinances, rules and regulations. DPD has approved the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10 **Signs and Public Relations.** The Developer shall erect in a conspicuous location on the Property during the Project, a sign of size and style approved by the City, indicating that financing has been provided by the City. The City shall approve any other signs on the Property. The City reserves the right to include the name, photograph, artistic rendering of the Project and any other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications.

3.11 **Utility Connections.** The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the Property, provided the Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12 **Permit Fees.** In connection with the Project, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

3.13 **Residential Use.** If another use of the Project is approved by the City during the Term of the Agreement that includes a housing component, DPD shall review affordability levels in redevelopment areas with housing components to establish appropriate levels for the Project, and review the Project for compliance with the City's affordable housing guidelines then in effect. At least twenty percent (20%) of any such housing units in the Project will be priced for sale by the Developer within affordability levels as established by the City and, if rental housing units, at least 20% shall be leased within affordability levels as established by the City.

3.14 **Accessibility for Disabled Persons.** Developer acknowledges that it is in the public interest to design, construct and maintain the Project in a manner which promotes, enables, and maximizes universal access throughout the Property. The Plans and Specifications for all buildings and improvements on and related to the Property have been, or prior to the Closing Date shall be, reviewed and approved by the Mayor's Office for People with Disabilities (MOPD) to ensure compliance with all applicable laws and regulations related to access for persons with disabilities and to promote the highest standard of accessibility.

ARTICLE FOUR: FINANCING

4.01 **Total Project Cost and Sources of Funds.** The cost of the Project (including certain start-up operating costs) is estimated to be \$27,500,000, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <u>Section 4.06</u>)	\$13,000,000
Lender Financing	12,800,000
TIF Assistance	<u>1,700,000</u>
ESTIMATED TOTAL	\$27,500,000

4.02 **Developer Funds.** Equity and/or Lender Financing may be used to pay any Project costs, including but not limited to Redevelopment Project Costs and costs of TIF-Funded Improvements.

4.03 City Funds.

(a) Uses of City Funds. City Funds (as defined below) may be used to pay directly or reimburse the Developer only for costs of TIF-Funded Improvements. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein, (subject to adjustment as provided for in Section 4.05(c) hereof) contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Article 5 hereof, the City hereby agrees to pay directly to or reimburse the Developer for the costs of the TIF-Funded Improvements from Bond Proceeds or Incremental Taxes deposited in the 1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund (the “**City Funds**”), subject to payment of the City Fee; provided, however, that the total amount of City Funds to be used to pay directly to or reimburse the Developer for incurring expenses related to TIF-Funded Improvements shall be an amount not to exceed the lesser of One Million, Seven Hundred Thousand Dollars (\$1,700,000), or six and seventy-five hundredths percent (6.75%) of the Actual Construction Costs, Exhibit H-3 hereto, and provided further, that the City Funds shall be available to pay for or reimburse costs related to TIF-Funded Improvements only so long as no Event of Default, or condition or event that with notice or the passage of time or both would constitute an Event of Default, has occurred and has not been cured.

The Developer acknowledges and agrees that the City's obligation to reimburse costs related to TIF-Funded Improvements is contingent upon the fulfillment of all of the conditions set forth above. DPD shall retain the right to approve or reject, in its sole discretion, the designation of any cost in the Project Budget as: (i) a TIF-Funded Improvement, or (ii) a part of the actual total Project costs.

4.04 Payment of City Funds.

(a) Recalculation. Developer has reported to DPD the cost information necessary to determine the aggregate actual certified construction related costs of the Project (the “**Actual Construction Costs**”, which is Exhibit H-3 hereto). The \$1,700,000 in City Funds to be paid to Developer under Section 4.03(b) above was calculated based on a Construction Budget of \$25,204,000. If the aggregate, Actual Construction Costs are less than \$25,204,000 for any reason, then the aggregate amount of City Funds to be paid to Developer hereunder (which is subject to the limitations of Section 4.03 (b) hereof) will be recalculated and reduced by fifty percent (50%) of the difference between \$25,204,000 and the Actual Construction Costs. If, after taking into account any reduction in the aggregate amount of City Funds, the Developer has received a greater amount of City Funds than is provided for herein, then the Developer shall repay such excess amounts to the City immediately.

(b) Payment. Subject to the requirements of Section 4.04(a), City Funds will be disbursed to Developer on the Closing Date (or as otherwise agreed by DPD and the Developer) in the amount of \$1,640,000 (net of any charges assessed under Section 10.02); a retainage by the City of \$60,000 will be disbursed when the Developer has completed, and DPD has approved, the additional finish work and landscaping set forth in Exhibit P hereto.

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Prior Expenditures. Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "**Prior Expenditure(s)**"). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. Exhibit I hereto sets forth the prior expenditures approved by DPD as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to Section 4.01 hereof.

(b) City Fee. The City may annually allocate an amount, not to exceed twenty percent (20%) of the Incremental Taxes deposited in the 1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund, as a fee (the "**City Fee**"), for payment of costs incurred by the City in the administration and monitoring of the Redevelopment Area. The Developer shall not be required to pay the City Fee, and the City Fee shall be disbursed from the 1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund prior to the disbursement of City Funds to reimburse the Developer hereunder for TIF-Funded Improvements.

(c) Allocation Among Line Items. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another being prohibited, without the prior express written consent of DPD; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of DPD.

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

ARTICLE FIVE: CONDITIONS PRECEDENT

The following conditions shall be complied with to the City's satisfaction within the time periods set forth below or, if no time period is specified, prior to the Closing Date:

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

5.02 **Approval of Plans and Specifications.** The Developer shall have submitted to DPD, and DPD shall have approved, the Plans and Specifications in accordance with the provisions of Section 3.02 hereof. In addition, Developer shall have submitted a progress report regarding the Project to DPD as of a date not less than 14 days prior to the Closing Date.

5.03 **Other Governmental Approvals.** Not less than five (5) days prior to the Closing Date, the Developer shall have secured all other necessary approvals and permits required by any Federal, State, or local statute, ordinance, rule or regulation and shall submit evidence thereof to DPD.

5.04 **Financing.** The Developer shall have furnished proof acceptable to the City that the Developer has Equity and Lender Financing in the amounts set forth in Section 4.01 hereof and satisfy its obligations under this Agreement. If a portion of such financing consists of Lender Financing, the Developer shall have furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with the Equity and other sources set forth in Section 4.01) to complete the Project. Any liens against the Property in existence at the Closing Date shall be subordinated to those encumbrances of the City set forth in Section 7.02(b) hereof pursuant to a subordination agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, in the Office of the Recorder of Deeds of Cook County.

5.05 **Title and Title Insurance.** On the Closing Date, the Developer shall furnish the City with a copy of the Title Policy for the Property, certified by the Title Company. The Title Policy shall be dated as of the Closing Date and shall contain only those title exceptions listed as Permitted Liens on Exhibit G hereto and shall evidence the recording of this Agreement pursuant to the provisions of Section 8.18 (Recording and Filing hereof). The Developer shall provide to DPD, prior to the Closing Date, documentation related to the lease of the Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DPD's satisfaction, by the Title Policy and any endorsements thereto. In addition, on the Closing Date the Developer shall provide a leasehold mortgagee's title insurance policy from the Title Company in favor of the City in an amount not less than the City Funds, insuring the City Mortgage as a valid lien on Developer's leasehold interest under the Lease, subordinate to that under any Existing Mortgage. This title policy shall also contain such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey.

5.06 **Evidence of Clean Title.** Not less than five (5) Business Days prior to the Closing Date, the Developer, at its own expense, shall have provided the City with current searches under the Developer's name as follows:

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

showing no liens against the Developer, the Developer's leasehold interest in the property, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

5.07 **Surveys.** Not less than five (5) Business Days prior to the Closing Date, the Developer shall have furnished the City with three (3) copies of the Survey.

5.08 **Insurance.** The Developer, at its own expense, shall have insured the Property in accordance with Article 12 hereof. At least five (5) Business Days prior to the Closing Date, certificates required pursuant to Article 12 hereof evidencing the required coverages shall have been delivered to DPD.

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

5.10 **Evidence of Prior Expenditures.** Not less than twenty (20) Business Days prior to the Closing Date, the Developer shall have provided evidence satisfactory to DPD in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.05(a) hereof.

5.11 **Financial Statements.** Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided Financial Statements to DPD for its 1997 fiscal year if available, and its most recently available interim financial statements (meeting the same definitional requirements as the Financial Statements).

5.12 **Additional Documentation.** The Developer shall have provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment and occupancy levels of the Hotel.

5.13 **Environmental Audit.** Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided DPD with copies of that certain phase I environmental audit completed with respect to the Property. Based on the City's review thereof, the City may, in its sole discretion, require the completion of a phase II environmental audit with respect to the Property prior to the Closing Date. The City reserves the right to terminate negotiations with respect to this Agreement if, in the City's view, such audits reveal the existence of material environmental problems. Prior to the Closing Date, the Developer shall provide the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

5.14 **Partnership Documents.** The Developer shall provide a copy of its current limited partnership certificate and agreement, with all amendments, containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and all other states in which the Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; and such other organizational documentation as the City may request.

5.15 **Litigation.** The Developer shall provide to Corporation Counsel and DPD, at least ten (10) Business Days prior to the Closing Date, a description of all pending or threatened litigation or administrative proceedings involving the Developer or 225 Wabash, Inc. or Kimpton Hotel Restaurant Group, specifying (except as otherwise approved by DPD), in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

5.16 **Preconditions of Disbursement.**

(a) Prior to each disbursement of City Funds hereunder, the Developer shall submit documentation of such expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by the Developer to DPD of any request of disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for disbursement, that:

(i) the total amount of the disbursement request represents the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

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

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

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

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

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

(vii) the Project is In Balance. The Project shall be deemed to be in balance ("**In Balance**") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "**Available Project Funds**" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by the Developer pursuant to this Agreement. The Developer hereby agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the City or the escrow agent, cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

(b) Additionally, the Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to, requirements set forth in the TIF Ordinances, and/or this Agreement. The City shall have the right, in its discretion, to require the Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct.

5.17 City Mortgage.

(a) In order to secure the Developer's compliance with certain of its obligations under this Agreement, the Developer shall, on the Closing Date, execute a junior mortgage on Developer's leasehold interest under the Lease (and any option rights to purchase the Property contained therein), in the form attached hereto as Exhibit L, in favor of the City (the "**City Mortgage**"), which City Mortgage shall be recorded in the office of the Recorder of Deeds of Cook County at the Developer's expense. The City Mortgage will be security for the Developer's repayment of City Funds in the amount of the Repayment Obligation hereinafter set forth in this Section 5.17, in the event the Developer breaches its covenants to: (i) complete the Project, (ii) meet its job creation goals, (iii) stay in operation, or (iv) repay amounts pursuant to Section 4.04(a) above. Further, Developer shall obtain and provide any and all consents from the owner of the Property and the Landlord under the Lease, and any other necessary party, in order to deliver the City Mortgage and have the same, together with this Agreement, recorded as aforesaid. In addition, the Developer shall obtain and provide at the request of DPD, an estoppel certificate regarding the Lease in form and substance reasonably satisfactory to DPD.

(b) For the purposes hereof, the amount of City Funds that are to be repaid by the Developer as contemplated in this Section 5.17 shall be the lesser of: (i) the actual amount of City Funds heretofore disbursed or (ii) the following amounts for the following periods (the “**Repayment Obligation**”):

<u>Period</u>	<u>Amount</u>
From the Closing Date to the date of issuance of the Certificate	Full Amount
From the date of issuance of the Certificate until the second anniversary of the date of the issuance of the Certificate	Full Amount
From the date of the second anniversary of the issuance of the Certificate until June 19, 2007, the end of the Term of the Agreement	Annual amortization of the amount of the Repayment Obligation divided by the number of years and any fraction thereof) remaining between the second anniversary of the date of issuance of the Certificate and June 19, 2007. For example, if there are 4 years in such period, then the Repayment Obligation reduces annually by 25% (100% ÷ 4) until at June 19, 2007, the Repayment Obligation is zero. For another example, if there are 2 years in such period, then the Repayment Obligation reduces annually by 50% (100% ÷ 2). For a third example, if there are 3.5 years in such period, then the City Mortgage reduces annually by 28.57% (100% ÷ 3.5)

(c) At any time prior to the end of the Term of the Agreement, Developer may terminate the Agreement (including without limitation, the need to obtain City consent as set forth in Section 8.01(d)), and obtain the notice and release described in Section 7.04, by payment to the City in immediately available funds of the full amount of the Repayment Obligation in effect at the time of payment (calculated as if a Repayment Obligation was due at such time).

5.18 Intercreditor Agreement. To the extent deemed necessary or advisable by DPD, and as requested by any entity providing Lender Financing the City and any entity providing Lender Financing may enter into an agreement regarding the respective rights and obligations of the parties thereto regarding the Lender Financing and the City Mortgage, in form and substance satisfactory to the City and consistent with the terms and provisions of this Agreement. Such agreement may, in DPD’s discretion, contain provisions regarding the extent to which the lien under the City

Mortgage shall be subordinate to any lien under such Lender Financing, or any replacement financing, it being understood by the parties hereto that the City's subordination shall be limited to the extent set forth in Section 16.01(c) hereof. Any such agreement may set forth the relative rights of the parties thereto with respect to the priority of their liens and their rights to pursue remedies.

5.19 **Developer's Lease.** The City has approved the Lease.

5.20 **Green Machine.** Developer shall have donated \$25,000 to the City for the City's purchase of a sidewalk cleaning machine to the City's specifications (a "**Green Machine**").

ARTICLE SIX: AGREEMENTS WITH CONTRACTORS

6.01 **Bid Requirement for General Contractor and Subcontractors.** The City has approved McHugh Construction Company as the General Contractor. (a) Except as set forth in Section 6.01(b) below, or as otherwise approved by DPD, prior to entering into an agreement with a general contractor (the "**General Contractor**") or any subcontractor for construction of the Project, the Developer shall solicit, or has solicited, or shall cause, or has caused, the General Contractor to solicit, bids from qualified contractors eligible to do business with the City, and shall submit all bids received to DPD for its inspection and written approval as follows:

(i) For the TIF-Funded Improvements, the Developer shall select, or has selected, the General Contractor (or shall cause, or has caused, the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner. If the Developer selects, or has selected, a General Contractor (or the General Contractor selects, or has selected, any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be reimbursed from City Funds;

(ii) For Project work other than the TIF-Funded Improvements, if the Developer selects, or has selected, a General Contractor (or the General Contractor selects, or has selected, any subcontractor) who has not submitted the lowest responsible bid, the difference between the lowest responsible bid and the higher bid selected shall be subtracted from the Actual total Construction Costs for purposes of the calculation of the amount of City Funds to be contributed to the Project pursuant to Section 4.03(b) hereof.

The Developer shall submit copies of the Construction Contract to DPD in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements have been provided with respect to existing subcontracts and shall be provided to DPD within five (5) Business Days of the execution of future subcontracts. The Developer shall have ensured that the General Contractor shall not (and shall have caused the General Contractor to ensure that the subcontractors shall not) begin work on the Project until all requisite permits have been obtained based on Plans and Specifications that are found acceptable to DPD.

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

6.02 Construction Contract. The City has approved the Construction Contract with the General Contractor. Prior to the Closing Date, the Developer shall deliver to DPD a copy of the proposed Construction Contract with the General Contractor selected for the Project in accordance with Section 6.01 above, for DPD's written approval. Such approval shall be granted or denied within ten (10) Business Days after delivery thereof. The Developer shall deliver to DPD and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

6.03 Payment Bond. For construction work in connection with any public improvements or work on the public way, Developer shall require that the General Contractor be bonded for its payment obligations by surety(s) having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. The City shall be named as obligee or co-obligee on such bond.

6.04 Employment Opportunity. The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Article 10 hereof.

6.05 Other Provisions. Except as otherwise agreed by DPD, in addition to the requirements of this Article 6, the Construction Contract and each contract with any subcontractor shall contain, or in separate written acknowledgments or undertakings as approved by DPD there shall be contained, provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Construction Worker Employment Requirement), Article 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD prior to the Closing Date with respect to such contracts and subcontracts then existing and thereafter within five (5) Business Days of the execution thereof.

ARTICLE SEVEN: COMPLETION OF REHABILITATION

7.01 Certificate of Completion of Rehabilitation.

(a) Upon completion of the Project in accordance with the terms of this Agreement, and upon the Developer's written request, DPD shall issue to the Developer a certificate of completion in recordable form (the "**Certificate**") certifying that the Developer has fulfilled its obligation to

complete the Project in accordance with the terms of this Agreement. DPD shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures. As of the date of execution of this Agreement, the Developer has completed the work necessary for the issuance of the Certificate, except for the items referenced in Section 3.01(iii) and the provisions of Section 10.02 (with respect to Section 10.02, as of the Closing Date, Developer has made a required payment thereunder, and no further compliance is required under Section 10.02).

7.02 Effect of Issuance of Certificate; Continuing Obligations.

(a) The Certificate relates only to the rehabilitation of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

(b) Those covenants specifically described at Section 8.02 (Covenant to Redevelop) and Section 8.06 (Job Creation and Retention; Covenant to Remain in the City) as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property for so long as the Lease remains in effect and thereafter to the extent the Developer or its nominee or designee acquires title to the property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to Section 18.14 (Assignment) of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder. When the Certificate is issued, the requirements of Section 8.02 will be deemed fulfilled.

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

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

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of TIF-Funded Improvements (including interest costs)

out of City Funds or other City monies. In the event that the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available pursuant to Section 4.01, the Developer shall reimburse the City for all reasonable costs and expenses incurred by the City in completing such TIF-Funded Improvements in excess of the available City Funds; and

(c) the right to seek reimbursement of the City Funds from the Developer, to the extent provided in Section 5.17, provided that the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status, if any, of any Bonds.

7.04 Notice of Expiration of Term of Agreement. Upon the expiration of the Term of the Agreement, DPD shall provide the Developer, at the Developer's written request, with: (i) a written notice in recordable form stating that the Term of the Agreement has expired, and (ii) with an executed release of the City Mortgage in recordable form.

ARTICLE EIGHT: REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE DEVELOPER.

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

(a) the Developer is a California limited partnership, duly organized, validly existing, qualified to do business in California, and licensed to do business in Illinois and in any other state where, due to the nature of its activities or properties, such qualification or license is required;

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

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary action, and does not and will not violate the limited partnership certificate or agreement of Developer, as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer or any of its assets is now or may become bound;

(d) unless otherwise permitted pursuant to the terms of this Agreement, or unless the Commissioner of DPD provides its prior written consent:

(i) the Developer has acquired and shall maintain good, indefeasible and merchantable title to the leasehold created under the Lease with respect to the Property, free and clear of all liens (except for the Permitted Liens and Non-Governmental Charges that the

Developer is contesting in good faith pursuant to Section 8.15 hereof, and liens permitted under Section 8.01(j) hereof); and

(ii) if the Developer obtains title to all or any portion of the Property pursuant to an exercise of an option to purchase under the Lease or otherwise, the Developer shall maintain good, indefeasible and merchantable title to the Property, free and clear of all liens (except for the Permitted Liens and Non-Governmental Charges that the Developer is contesting in good faith pursuant to Section 8.15 hereof, and liens permitted under Section 8.01(j) hereof).

The prior written consent of the City regarding any transfer of title to the Property or of the leasehold created under the Lease will not be unreasonably withheld. Notwithstanding the foregoing, nothing herein is intended to prohibit the Developer from obtaining senior purchase money financing for the televisions, refrigerators, telephones, restaurant equipment, office equipment and other tangible personal property customarily financed separately by hotel developers.

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

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

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

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

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

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of its leasehold interest and any other interests in the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto), except in the ordinary course of business; provided, that the Developer's ability to transfer all or a portion of its leasehold interest

and any other interests in the Property pursuant to this subsection (j) shall be subject to the provisions of Section 8.01(d) hereof; (3) enter into any transaction outside the ordinary course of the Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition;

(k) the Developer has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of DPD:

(i) allow the existence of any liens against its leasehold interest therein other than the Permitted Liens; or incur any indebtedness, secured or to be secured by its leasehold interest therein or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget; or

(ii) if the Developer obtains title to all or any portion of the Property pursuant to an exercise of an option to purchase under the Lease or otherwise, allow the existence of any liens against the Property other than the Permitted Liens,; or incur any indebtedness, secured or to be secured by the Property or any fixtures now or thereafter attached thereto, except Lender Financing disclosed in the Project Budget; notwithstanding the foregoing, nothing herein is intended to prohibit the Developer from obtaining senior purchase money financing for the televisions, refrigerators, telephones, restaurant equipment, office equipment an other tangible personal property customarily financed separately by hotel developers; and

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

(m) the Lease is in full force and effect and no default exists thereunder nor has an event of occurred which by the giving of notice or passage of time, or both, that could give rise to such a default.

8.02 Covenant to Redevelop. With DPD's approval of the Plans and Specifications and the Project Budget as provided in Sections 3.02 and 3.03 hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property in accordance with this Agreement and all exhibits attached hereto, the TIF Ordinances, the Plans and Specifications, the Project Budget and all amendments thereto, and all Federal, State and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. The covenants set forth in this Section 8.02 shall run with the land and be binding upon any transferee, during the term of this Agreement, and shall be deemed fulfilled when a Certificate is issued. As of the date of this Agreement, Developer has complied with and fulfilled the requirements of this Section 8.02, except for the items referenced in Section 3.01(iii)

and the provisions of Section 10.02 (with respect to Section 10.02, as of the Closing Date, Developer has made a required payment thereunder, and no further compliance is required under Section 10.02).

8.03 **Redevelopment Plan.** The Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

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

8.05 **Other Bonds.** The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole and absolute discretion) any bonds (the "**Bonds**") in connection with the Project, the proceeds of which are to be used to reimburse the City for expenditures made in connection with the TIF-Funded Improvements; provided, however, that any such amendments shall not have an adverse effect on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto.

8.06 **Job Creation and Retention; Covenant to Remain in the City.**

(a) The Developer (or the operator of the Hotel) shall create and retain jobs for not less than the following number of Full-Time Equivalents and Part-time Equivalents according to the following schedule:

<u>Event</u>	<u>Jobs</u>
Project Opening	65 FT and 35 PT
69% or more occupancy level for the Hotel	80 FT and 40 PT
80% or more occupancy level for the Hotel	100 FT and 55 PT

(b) As used above, the phrase "**occupancy level**" shall mean the average occupancy level for the Hotel over any calendar year period. Developer covenants to retain such jobs for the Term of the Agreement. Developer additionally covenants to operate the Hotel as a first-class Hotel for the Term of the Agreement.

(c) The Hotel shall not cease to operate as such for a continuous period of time of more than twenty-four (24) months, and such non-operation shall only be related to necessary repair or rehabilitation work (it being understood that the job retention covenants for the Hotel set forth above shall not apply during any such period that the Hotel is not in operation due to necessary repair or rehabilitation work). If the Hotel is not in operation as described above for a continuous period of time of more than twenty-four (24) months, the City shall have the right, in its discretion, to terminate this Agreement, and the Developer shall be obligated to repay to the City all City Funds received hereunder (as may be adjusted by the provisions of Section 5.17 hereof), and any future payments of City Funds by the City hereunder shall not be made. The Developer covenants that, for the term of the Agreement, without the prior written consent of DPD, the Developer shall not change the use of any portion of the Building from the uses set forth in the Plans and Specifications, and such consent will not be unreasonably withheld or delayed. The covenants set forth in this Section 8.06 shall run with the land, for the Term of the Agreement, and be binding from any transferee.

8.07 Employment Opportunity. For construction work to be performed to obtain issuance of the Certificate, except for the provisions of Section 10.01 (the obligations of which extend beyond the issuance of a Certificate), the Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 8.09 (Prevailing Wage) and Article 10 (Developer's Employment Obligations) hereof. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, (Prevailing Wage) 10.02 (City Residence Construction Worker Employment Requirement) and 10.03 (the Developer's MBE/WBE Commitment) of this Agreement. Such reports shall be delivered to the City every month until the Project has been completed. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which the Developer shall correct any shortfall. Prior to the Closing Date, the Developer, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with regard to the Developer's plan to achieve its obligations under this Agreement, and as mandated by City ordinance and DPD policy.

8.08 Employment Profile. The Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DPD, from time to time, and at least once every calendar year, during the term of this Agreement statements of its employment profile (which must include information regarding job creation and retention as required in Section 8.06) upon DPD's request.

8.09 Prevailing Wage. For construction work to be performed to obtain issuance of the Certificate, the Developer covenants and agrees to pay, and cause and/or to contractually obligate the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the State Department of Labor (the "**Department**"), to all Project employees. All such contracts shall list or abide by the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the

Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor, or other suitable written documentation to evidence compliance with this Section 8.09.

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

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

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

8.13 **Financial Statements.** The Developer shall obtain and provide to DPD Financial Statements for the Developer's fiscal year ended December 31, 1997 and each December 31st thereafter until the release of the City Mortgage or so long as Developer has committed an Event of Default under Section 15.01, which remains uncured.

8.14 **Insurance.** The Developer, solely at its own expense, shall comply with all provisions of Article 12 hereof.

8.15 **Non-Governmental Charges.**

(a) **Payment of Non-Governmental Charges.** Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Property or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or Project; provided however, that if such Non-Governmental Charge may be paid in installments, the Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer shall furnish to DPD, within thirty (30) days of DPD's request, official receipts from the appropriate entity,

or other proof satisfactory to DPD, evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. The Developer shall have the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

(ii) at DPD's sole option, to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

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

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

8.18 Recording and Filing. The Developer, with the consent of the Trustee of the Trust and concurrence of the beneficiary thereof, shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed on the date hereof in the conveyance and real property records of Cook County. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.19 Real Estate Provisions.

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon the Developer or all or any portion of the Property or the Project to the extent of its legal or contractual obligation under the Lease or otherwise. "**Governmental Charge**" shall mean all Federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to the Developer, the Property or the Project, including but not limited to real estate taxes.

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

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

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

(b) Developer's Failure To Pay Or Discharge lien. If the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect

thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DPD by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

8.20 **Public Benefits Program.** The Developer shall enter into that certain Public Benefits Agreement with the City dated as of the date hereof, substantially in the form attached hereto as Exhibit M, to cause the development and implementation of a public benefits program (“**Public Benefits Program**”). As part thereof, the Developer has also undertaken to donate \$25,000 to the City for the purchase of a Green Machine as provided in Section 5.20.

8.21 **Public Benefits Status Reports.** On a semi-annual basis, the Developer shall provide the City with a status report describing in sufficient detail Developer’s compliance with the Public Benefits Program.

8.22 **Job Training/Job Readiness Program.** The City intends to establish a work readiness and job training program (the “**Job Training And Job Readiness Program**”) in order to help prepare individuals to work for businesses located within the Redevelopment Area. The general terms and goals of the Job Training And Job Readiness Program are described on Exhibit N attached hereto, which may from time to time be further modified, refined and supplemented to provide a more detailed basis for implementation. The Developer is required to participate in the Job Training And Job Readiness Program.

8.23 **Broker’s Fees.** Developer has no liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement for which the City could become liable or obligated.

8.24 **No Business Relationship with City Elected Officials.** Pursuant to Section 2-156-030(b) of the Municipal Code of Chicago, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a “Business Relationship” (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion of any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship. Violation of Section 2-156-030(b) by any elected official, or any person acting at the direction of such official, with respect to this Agreement, or in connection with the transactions contemplated thereby, shall be grounds for termination of this Agreement and the transactions contemplated thereby. The Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030(b) has occurred with respect to this Agreement or the transactions contemplated thereby.

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

ARTICLE NINE: REPRESENTATIONS, WARRANTIES AND COVENANTS OF CITY

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

9.02 **Confidentiality.** To the extent provided by statute or regulation, the City agrees to keep all Financial Statements received from Developer confidential.

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

ARTICLE TEN: DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01 **Employment Opportunity.** The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer operating on the Property (collectively, with the Developer, such parties are defined herein as the "**Employers**", and individually defined herein as an "**Employer**") to agree, that, until issuance of the Certificate (only with respect to contractors and subcontractors working on the Project) and for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time-to-time (the "**Human Rights Ordinance**"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner

with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area. As stated above, the foregoing provisions of this subsection (b) apply to contractors and subcontractors working on the Project only with respect to their work on the Project and only until the issuance of the Certificate.

(c) Each Employer shall comply with all Federal, State and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the State Human Rights Act, 775 ILCS 5/1-101 et. seq. (1996 State Bar Edition, as amended), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of Federal, State and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be. As stated above, the foregoing provisions of this subsection (e) apply to contractors and subcontractors working on the Project only with respect to their work on the Project and only until the issuance of the Certificate.

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

10.02 City Resident Construction Worker Employment Requirement. For construction work to be performed to obtain issuance of the Certificate, the Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during

the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

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

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

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

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

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

At the direction of DPD, affidavits and other supporting documentation will be required of the Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

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

The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution.

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget (the product of .0005 x such aggregate approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Purchasing Agent's determination as to whether the Developer must surrender damages as provided in this paragraph.

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

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

As of the Closing Date, Developer has made a required payment under this section, and no further compliance is required under Section 10.02.

10.03 **The Developer's MBE/WBE Commitment.** The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that, during construction of the Project, until issuance of the Certificate:

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

- i. At least 25 percent by MBEs.
- ii. At least 5 percent by WBEs.

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

c. Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer), or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of: (i) the MBE or WBE participation in such joint venture; or, (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as a General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. The Developer or the General Contractor may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in its activities and operations other than the Project.

d. The Developer shall deliver monthly reports to DPD during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include inter alia the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist DPD in determining the Developer's compliance with this MBE/WBE commitment. DPD shall have access to the Developer's books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with Article 14 of this Agreement, on five (5) Business Days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

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

f. Any reduction or waiver of the Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Section 2-92-450, Municipal Code of Chicago.

g. Prior to the Closing Date, the Developer, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with regard to the Developer's compliance with its obligations under this Section 10.03. During this meeting, the Developer shall demonstrate to DPD its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by DPD. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the monitoring staff of DPD. Failure to submit such documentation on a timely basis, or a determination by DPD, upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

ARTICLE ELEVEN: ENVIRONMENTAL MATTERS

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

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

ARTICLE TWELVE: INSURANCE

12.01 **Insurance.** The Developer shall provide and maintain, or cause to be provided and maintained, at the Developer's own expense, during the Term of this Agreement, the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement

(i) Workers' Compensation and Employers Liability Insurance

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

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

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

(b) Construction. Prior to the construction of any portion of the Project, the Developer shall procure and maintain, or cause to be procured and maintained, the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability Insurance

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

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

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

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

(iii) Automobile Liability Insurance (Primary and Umbrella)

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

(iv) Railroad Protective Liability Insurance

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

(v) All Risk Builders Risk Insurance

When the contractor undertakes any construction, including improvements, betterments, and/or repairs, the contractor shall provide, or cause to be provided All Risk Blanket Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent Homes. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable, flood including surface water backup. The City shall be named as an additional insured and loss payee.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000. Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work performed in connection with

this Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers Insurance

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

(viii) Contractor's Pollution Liability

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

(c) Other Requirements

- (i) The Developer will furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the Term of this Agreement. The Developer shall submit evidence of insurance on the City Insurance Certificate Form or equivalent prior to Agreement award. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from the Developer shall not be deemed to be a waiver by the City. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

- (ii) The insurance shall provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.
- (iii) Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer.
- (iv) The Developer agrees that insurers shall waive rights of subrogation against the City, its employees, elected officials, agents, or representatives.
- (v) The Developer expressly understands and agrees that any coverages and limits furnished by the Developer shall in no way limit the Developer's liabilities and responsibilities specified within the Agreement documents or by law.
- (vi) The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the City shall not contribute with insurance provided by the Developer under the Agreement.
- (vii) The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.
- (viii) The Developer shall require its general contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the contractor, or subcontractors. All contractors and subcontractors shall be subject to the same requirements of Developer unless otherwise specified herein.
- (ix) If the Developer, contractor or subcontractor desires additional coverages, the Developer, Contractor and each subcontractor shall be responsible for the acquisition and cost of such additional protection.
- (x) The City Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as such action does not, without the Developer's prior written consent, increase such requirements.

ARTICLE THIRTEEN: INDEMNIFICATION

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

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

- (i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or
- (ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or
- (iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or any Affiliate of Developer or any agents, employees, contractors or persons acting under the control or at the request of the Developer or any Affiliate of Developer; or
- (iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto.

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

ARTICLE FOURTEEN: MAINTAINING RECORDS/RIGHT TO INSPECT

14.01 **Books and Records**. The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual costs of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized

representative of the City, at the Developer's expense. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the Project.

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

ARTICLE FIFTEEN: DEFAULT AND REMEDIES

15.01 **Events of Default.** The occurrence of any one or more of the following events, subject to the provisions of Section 15.03, shall constitute an "Event of Default" by the Developer hereunder:

(a) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement, the City Mortgage or any related agreement;

(b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's business, property, assets, operations or condition, financial or otherwise;

(c) the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any respect;

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's debts, whether under the United States Bankruptcy Code or under any other state or Federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

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

ARTICLE SIXTEEN: MORTGAGING OF THE PROJECT

16.01 **Mortgaging of the Project.** Any and all mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit G hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "**Existing Mortgages.**" Any mortgage or deed of trust that the Developer or its successors or assigns (subject to the provisions of Sections 8.01(d), 8.01(j) and 18.14 hereof) may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof during the Term of the Agreement without obtaining the prior written consent of the City is referred to herein as a "**New Mortgage.**" Any mortgage or deed of trust that the Developer or its successors or assigns (subject to the provisions of Sections 8.01(d), 8.01(j) and 18.14 hereof) may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof during the Term of the Agreement with the prior written consent of the City is referred to herein as a "**Permitted Mortgage.**" It is hereby agreed by and between the City and the Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a mortgage or deed of trust (other than an Existing Mortgage or a Permitted Mortgage) whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.14 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement (other than the benefit of the City's agreement to subordinate its lien under the City Mortgage to a lien in favor of such party or its assigns, on the terms set forth in subsection (c) below), but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee or any other party shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.14 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party shall have no liability under this Agreement for any Event of Default of the Developer which accrued

prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement (other than the benefit of the City's agreement to subordinate its lien under the City Mortgage to a lien in favor of such party or its assigns, on the terms set forth in subsection (c) below), and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to the Developer of a Certificate pursuant to Article 7 hereof, no New Mortgage shall be executed with respect to the leasehold interest in the Property (or to the Property, if the Developer obtains title to the Property) or any portion thereof without the prior written consent of the Commissioner of DPD, which consent shall not be unreasonably withheld or delayed so long as such New Mortgage(s) and the financing it secures is consistent with the requirements and limitations contained in this Agreement and in the City Mortgage. The City agrees that the lien of the City under the City Mortgage shall be subordinate to the lien under a New Mortgage (or New Mortgages) or Permitted Mortgages only if it relates to financing obtained by the Developer or its successors or assigns (subject to the provisions of Sections 8.01(d), 8.01(j) and 18.14 hereof) the principal amount of which does not exceed a 93.25% loan-to-value of the Mortgaged Property (as such term is defined in the City Mortgage), as determined by a Lender's appraisal. The City shall execute a subordination agreement, in a form attached hereto as Exhibit O, to evidence the subordination.

ARTICLE SEVENTEEN: NOTICES

17.01 Notices. All notices and any other communications under this Agreement will: (A) be in writing; (B) be sent by: (i) telecopier/fax machine, (ii) delivered by hand, (iii) delivered by an overnight courier service which maintains records confirming the receipt of documents by the receiving party, or (iv) registered or certified U.S. Mail, return receipt requested; (c) be given at the following respective addresses:

If to the City:	City of Chicago Department of Planning and Development Attn: Commissioner 121 North LaSalle Street, Room 1000 Chicago, IL 60602 312/744-4471 (Main No.) 312/744-2271 (Fax)
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With Copies To: City of Chicago
Corporation Counsel
Attn: Finance and Economic Development Division
121 North LaSalle Street, Room 600
Chicago, IL 60602
312/744-0200 (Main No.)
312/744-8538 (Fax)

If to the Developer: Chicago Oxford Associates, L.P.
c/o Kimpton Hotel & Restaurant Group, Inc.
Attn: President
222 Kearny Street
Suite 200
San Francisco, California 94108
415/397-5572 (Main No.)
415/296-8031 (Fax)

With Copies To: Maria N. Saldana, Esq.
Alzheimer & Gray
10 South Wacker Drive, Suite 3800
Chicago, Illinois 60606
312/715-4000 (Main No.)
312/715-4800 (Fax)

or at such other address or telecopier/fax or telephone number or to the attention of such other person as the party to whom such information pertains may hereafter specify for the purpose in a notice to the other specifically captioned "Notice of Change of Address" and, (D) be effective or deemed delivered or furnished: (i) if given by telecopier/fax, when such communication is confirmed to have been transmitted to the appropriate telecopier/fax number specified in this section, and confirmation is deposited into the U.S. Mail, postage prepaid to the recipient's address shown herein; (ii) if given by hand delivery or overnight courier service, when left at the address of the addressee, properly addressed as provided above.

ARTICLE EIGHTEEN: ADDITIONAL PROVISIONS

18.01 **Amendments**. This Agreement and the Exhibits attached hereto may not be modified or amended except by an agreement in writing signed by the parties; provided, however, that the City in its discretion, may amend, modify or supplement the Redevelopment Plan, which is Exhibit D hereto.

18.02 **Complete Agreement, Construction, Modification**. This Agreement, including any exhibits and the other agreements, documents and instruments referred to herein or contemplated

hereby, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous negotiations, commitments and writings with respect to such subject matter.

18.03 **Limitation of Liability.** No member, elected or appointed official or employee or agent of the City shall be individually, collectively or personally liable to the Developer or any successor in interest to Developer in the event of any default or breach by the City or for any amount which may become due to the Developer or any successor in interest, from the City or on any obligation under the terms of this Agreement.

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

18.05 **Waivers.** No party hereto shall be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by such party. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any of such parties' rights or of any obligations of any other party hereto as to any future transactions.

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

18.07 **Parties in Interest/No Third Party Beneficiaries.** The terms and provisions of this Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the respective successors and permitted assigns of the parties hereto. This Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this Agreement, nor any act of the City or the Developer, shall be deemed or construed by any of the parties hereto or by third persons, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving the City or the Developer.

18.08 **Titles and Headings.** The Article, section and paragraph headings contained herein are for convenience of reference only and are not intended to limit, vary, define or expand the content thereof.

18.09 **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, with the same effect as if all parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument.

18.10 **Severability.** If any provision of this Agreement, or the application thereof, to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein. In such event, the parties shall negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly affects the parties' intent in entering into this Agreement.

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

18.12 **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State, without regard to its conflicts of law principles.

18.13 **Form of Documents.** All documents required by this Agreement to be submitted, delivered or furnished to the City shall be in form and content satisfactory to the City.

18.14 **Assignment.** Prior to the issuance by the City to the Developer of a Certificate, the Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City; provided, however, that the Developer may assign, on a collateral basis, the right to receive City Funds hereunder to a lender providing Lender Financing which has been identified to the City as of the Closing Date. After issuance of the Certificate, City consent is not required to the Developer's assignment of the Agreement (which shall not include an assignment of the Developer's interest in the Property). Notwithstanding the issuance of such Certificate, any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Section 8.19 (Real Estate Provisions) and Section 8.24 (Survival of Covenants) hereof, for the Term of the Agreement. The Developer hereby consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.15 **Binding Effect.** This Agreement shall be binding upon the Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein).

18.16 **Force Majeure.** Neither the City nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage



necessity of posting a bond or other security, the damages for such breach hereby being acknowledged as unascertainable.

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

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

[The remainder of this page is intentionally left blank and the signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

CHICAGO OXFORD ASSOCIATES, L.P. a California Limited Partnership

ATTEST:

By: 225 WABASH, INC. a California corporation, its general partner

By: Thomas McLachlan

Its: Witness

By: [Signature]

Its: President Security

CITY OF CHICAGO

By: _____

Commissioner,
Department of Planning and
Development

99994866

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

CHICAGO OXFORD ASSOCIATES, L.P. a California Limited Partnership

ATTEST:

By: 225 WABASH, INC. a California corporation, its general partner


By: _____

Its: _____

By: _____

Its: President

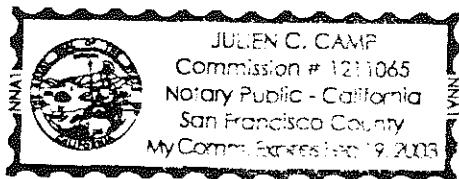
CITY OF CHICAGO

By: 
_____, ^{KTH}
Commissioner,
Department of Planning and
Development

CALIFORNIA
STATE OF ~~ILLINOIS~~)
SAN FRANCISCO SS
COUNTY OF ~~COOK~~)

I, JULIEN C. CAMP, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that JAMES J. WHELAN and TAMSEN MCDONNELL personally known to me to be the SECRETARY and N/A of 225 Wabash Inc., an Illinois Corporation, which is the general partner (the "General Partner") of Chicago Oxford Associates L.P., a California Limited Partnership, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered said instrument, pursuant to the authority given to them as General Partner as their free and voluntary act and as the free and voluntary act of the General Partner for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 18TH day of OCTOBER, 1999.



J. C. Camp
Notary Public

My Commission Expires 2/19/03

(SEAL)

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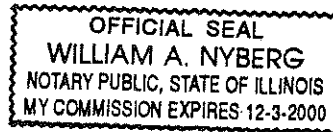
STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

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

GIVEN under my hand and official seal this 20th day of October, 1999.

William A. Nyberg
Notary Public

My Commission Expires 12/03/00



Chicago Oxford Associates L.P.

Redevelopment Agreement
dated as of October 20, 1999

EXHIBIT A

REDEVELOPMENT AREA LEGAL DESCRIPTION

A true and correct copy of the legal description of the Central Loop Redevelopment Project Area as of the Closing Date is attached to this exhibit cover sheet.

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Exhibit A-1

II.
REDEVELOPMENT PROJECT AREA LEGAL DESCRIPTION

Boundaries of the North Loop Tax Increment Redevelopment Project Area are shown on the Boundary Map, Exhibit 1. The legal description of the Redevelopment Project Area is as follows:

A tract of land consisting of Lots and Blocks or parts thereof and streets and alleys of Blocks 16, 17, 35, 36, 37 and 58 in the Original Town of Chicago in the East part of the S.E. 1/4 of Section 9 Township 39 North, Range 14 and part of Blocks 8 and 9 in the Fort Dearborn Addition to Chicago in the S.W. Fractional 1/4 of Section 10, Township North, Range 14 East of the Third Principal Meridian, in the City of Chicago, County of Cook, State of Illinois and;

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

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EXHIBIT A - 2

The boundaries of the Added Project Area are legally described as follows:

Subarea 1

A TRACT OF LAND COMPRISED OF ALL OR PARTS OF BLOCKS 19, 20, 31, 32, 33, 40 AND 41 IN THE ORIGINAL TOWN OF CHICAGO, TOGETHER WITH PARTS OF STREETS AND ALLEYS ADJOINING SAID BLOCKS, IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH TRACT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST LINE OF NORTH LaSALLE STREET AS WIDENED WITH THE NORTH LINE OF BLOCK 33;

THENCE WEST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST LAKE STREET) TO THE WEST LINE OF SAID BLOCK;

THENCE SOUTH ALONG SAID WEST LINE (BEING ALSO THE EAST LINE OF NORTH WELLS STREET) TO THE NORTH LINE OF WEST COUCH PLACE;

THENCE EAST ALONG SAID NORTH LINE TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE WEST LINE OF LOT 7 IN BLOCK 33;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID WEST LINE, TO THE SOUTH LINE OF SAID BLOCK;

THENCE EAST ALONG SAID SOUTH LINE (BEING ALSO THE NORTH LINE OF WEST RANDOLPH STREET) AND ALONG THE EASTWARD EXTENSION OF SAID SOUTH LINE, TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE WEST LINE OF BLOCK 39 IN ORIGINAL TOWN OF CHICAGO;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID WEST LINE (BEING ALSO THE EAST LINE OF NORTH LaSALLE STREET) TO AN INTERSECTION WITH THE EASTWARD EXTENSION OF THE SOUTH LINE OF WEST COURT PLACE;

THENCE WEST ALONG SAID EXTENSION AND ALONG SAID SOUTH LINE TO THE WEST LINE OF BLOCK 40 AFORESAID;

THENCE WEST, CROSSING NORTH WELLS STREET, TO THE NORTHEAST CORNER OF LOT 8 IN BLOCK 41 AFORESAID;

THENCE WEST ALONG THE NORTH LINE OF SAID LOT TO AN INTERSECTION WITH THE SOUTHWARD EXTENSION OF THE WEST LINE OF LOT 1 IN SAID BLOCK;

THENCE NORTH ALONG SAID EXTENSION AND ALONG SAID WEST LINE, TO THE NORTH LINE OF BLOCK 41;

THENCE WEST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST RANDOLPH STREET) TO THE NORTHWEST CORNER OF SAID BLOCK;

THENCE WEST, CROSSING NORTH FRANKLIN STREET, TO THE NORTHEAST CORNER OF BLOCK 42 IN ORIGINAL TOWN OF CHICAGO;

THENCE WEST ALONG THE NORTH LINE OF SAID BLOCK 1 (BEING ALSO THE SOUTH LINE OF WEST RANDOLPH STREET) TO AN INTERSECTION WITH THE SOUTHWARD EXTENSION OF THE WEST LINE OF THE EAST 20 FEET OF LOT 7 IN BLOCK 31 AFORESAID;

THENCE NORTH ALONG SAID EXTENSION AND ALONG SAID WEST LINE, TO THE NORTH LINE OF WEST COUCH PLACE;

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THENCE EAST ALONG SAID NORTH LINE TO THE EAST LINE OF BLOCK 31;
THENCE NORTH ALONG SAID EAST LINE (BEING ALSO THE WEST LINE OF
NORTH FRANKLIN STREET) AND ALONG THE NORTHWARD EXTENSION OF SAID
EAST LINE TO AN INTERSECTION WITH THE WESTWARD EXTENSION OF THE
SOUTH LINE OF BLOCK 20 AFORESAID;

THENCE EAST ALONG SAID EXTENSION, AND ALONG SAID SOUTH LINE
(BEING ALSO THE NORTH LINE OF WEST LAKE STREET) TO THE WEST LINE OF
NORTH POST PLACE;

THENCE NORTH ALONG SAID WEST LINE AND ALONG THE NORTHWARD
EXTENSION THEREOF, TO AN INTERSECTION WITH THE WESTWARD EXTENSION
OF THE NORTH LINE OF WEST HADDOCK PLACE;

THENCE EAST ALONG SAID EXTENSION AND ALONG SAID NORTH LINE TO
THE EAST LINE OF BLOCK 20;

THENCE EAST, CROSSING NORTH WELLS STREET, TO THE INTERSECTION OF
THE WEST LINE OF BLOCK 19 AFORESAID WITH THE NORTH LINE OF WEST
HADDOCK PLACE;

THENCE EAST ALONG SAID NORTH LINE TO AN INTERSECTION WITH THE
WEST LINE OF NORTH LaSALLE STREET AS WIDENED;

THENCE SOUTH ALONG SAID WEST LINE TO THE SOUTH LINE OF BLOCK 19;

THENCE SOUTH, CROSSING WEST LAKE STREET, TO THE POINT OF
BEGINNING;

IN THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS.

Subarea 2

A TRACT OF LAND COMPRISED OF PART OF BLOCK 58 AND PARTS OF
ADJACENT STREETS AND ALLEYS IN THE ORIGINAL TOWN OF CHICAGO IN
SECTION 9, TOGETHER WITH ALL OR PARTS OF BLOCKS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
12, 14 AND 15 AND PARTS OF ADJACENT STREETS AND ALLEYS IN FORT DEARBORN
ADDITION TO CHICAGO IN SECTION 10, AND ALL OR PARTS OF BLOCKS 1 THRU 10,
AND ALL OR PARTS OF BLOCKS 1 THRU 10 INCLUSIVE AND PARTS OF ADJACENT
STREETS AND ALLEYS IN FRACTIONAL SECTION 15 ADDITION TO CHICAGO, AND
ALL OR PARTS OF BLOCKS 113, 114, 120, 122, 123, 124, 137, 138, 139, 140, 141 AND 142 IN
SCHOOL SECTION ADDITION TO CHICAGO, ALL IN TOWNSHIP 39 NORTH, RANGE 14
EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH TRACT OF LAND IS MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF BLOCK 8 IN FORT DEARBORN
ADDITION TO CHICAGO IN SECTION 10 AFORESAID;

THENCE EAST ALONG THE NORTH LINE OF SAID BLOCK (BEING ALSO THE
SOUTH LINE OF EAST WACKER DRIVE) TO THE NORTHEAST CORNER OF LOT 6 IN
SAID BLOCK;

THENCE SOUTH ALONG THE EAST LINE OF SAID LOT TO THE NORTH LINE
OF EAST HADDOCK PLACE;

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THENCE WEST ALONG SAID NORTH LINE TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE EAST LINE OF LOT 28 IN BLOCK 8;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID EAST LINE, TO THE SOUTH LINE OF SAID BLOCK;

THENCE EAST ALONG SAID SOUTH LINE (BEING ALSO THE NORTH LINE OF EAST LAKE STREET) TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE EAST LINE OF LOT 10 IN BLOCK 9 OF FORT DEARBORN ADDITION TO CHICAGO;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID EAST LINE TO THE NORTH LINE OF EAST BENTON PLACE;

THENCE EAST ALONG SAID NORTH LINE, AND ALONG THE EASTWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE WEST LINE OF THE SOUTH PART OF BLOCK 10 IN FORT DEARBORN ADDITION TO CHICAGO;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID WEST LINE (BEING ALSO THE EAST LINE OF NORTH WABASH AVENUE) AND ALONG THE SOUTHWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE EASTWARD EXTENSION OF THE NORTH LINE OF BLOCK 13 IN SAID FORT DEARBORN ADDITION;

THENCE WEST ALONG SAID EXTENSION TO THE NORTHEAST CORNER OF SAID BLOCK 13;

THENCE SOUTH ALONG THE EAST LINE OF SAID BLOCK (BEING ALSO THE WEST LINE OF NORTH WABASH AVENUE) TO THE SOUTHEAST CORNER OF SAID BLOCK;

THENCE WEST ALONG THE SOUTH LINE OF SAID BLOCK (BEING ALSO THE NORTH LINE OF EAST WASHINGTON STREET) TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE WEST LINE OF BLOCK 14 IN FORT DEARBORN ADDITION;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID WEST LINE (BEING ALSO THE EAST LINE OF NORTH STATE STREET) TO AN INTERSECTION WITH THE EASTWARD EXTENSION OF THE SOUTH LINE OF LOT 1 IN ASSESSOR'S RESUBDIVISION OF SUB-LOTS 1 TO 5 OF ASSESSOR'S DIVISION OF LOTS 1, 2, 3, 4 AND 5 OF BLOCK 58 IN ORIGINAL TOWN OF CHICAGO AFORESAID;

THENCE WEST ALONG SAID EXTENSION, CROSSING NORTH STATE STREET AND ENTERING SECTION 9 AFORESAID, AND CONTINUING ALONG SAID SOUTH LINE OF SAID LOT 1, TO THE SOUTHWEST CORNER OF SAID LOT;

THENCE NORTH ALONG THE WEST LINE OF SAID LOT TO THE NORTH LINE OF BLOCK 58;

THENCE WEST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST WASHINGTON STREET) TO THE NORTHWEST CORNER OF LOT 7 IN ASSESSOR'S DIVISION OF LOTS 1, 2, 3, 4 AND 5 OF BLOCK 58;

THENCE SOUTH ALONG THE WEST LINE OF SAID LOT TO THE NORTH LINE OF WEST CALHOUN PLACE;

SECTION 9

THENCE WEST ALONG SAID NORTH LINE, AND ALONG THE WESTWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE EAST LINE OF THE SOUTH PART OF BLOCK 57 IN ORIGINAL TOWN OF CHICAGO AFORESAID;

THENCE SOUTH ALONG SAID EXTENSION AND ALONG SAID EAST LINE (BEING ALSO THE WEST LINE OF NORTH DEARBORN STREET) AND ALONG THE SOUTHWARD EXTENSION OF SAID EAST LINE TO THE SOUTHEAST CORNER OF SAID BLOCK 57;

THENCE SOUTHWARD, CROSSING WEST MADISON STREET AND ENTERING SECTION 16, TO THE NORTHEAST CORNER OF BLOCK 119 IN SCHOOL SECTION ADDITION AFORESAID;

THENCE SOUTH ALONG THE EAST LINE OF SAID BLOCK (BEING ALSO THE WEST LINE OF SOUTH DEARBORN STREET) TO AN INTERSECTION WITH THE WESTWARD EXTENSION OF THE NORTH LINE OF LOT 20 IN THE SUBDIVISION OF BLOCK 142 IN SAID SCHOOL SECTION ADDITION;

THENCE EAST ALONG SAID EXTENSION, AND ALONG SAID NORTH LINE, TO THE NORTHEAST CORNER OF SAID LOT;

THENCE SOUTH ALONG THE EAST LINE OF LOTS 20 THRU 27 INCLUSIVE IN SAID SUBDIVISION, AND ALONG THE SOUTHWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTH LINE OF BLOCK 141 IN SCHOOL SECTION SUBDIVISION AFORESAID;

THENCE EAST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST MONROE STREET) TO THE NORTHWEST CORNER OF THE EAST HALF OF LOT 3 IN SAID BLOCK 141;

THENCE SOUTH ALONG THE WEST LINE OF THE EAST HALF OF SAID LOT TO THE NORTH LINE OF WEST MARBLE (HYDRAULIC) PLACE;

THENCE WEST ALONG SAID NORTH LINE, AND THE WESTWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE EAST LINE OF LOT 20 IN COUNTY CLERK'S DIVISION OF BLOCK 120 IN SCHOOL SECTION ADDITION;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID EAST LINE (BEING ALSO THE WEST LINE OF SOUTH DEARBORN STREET) AND ALONG THE SOUTHWARD EXTENSION OF SAID EAST LINE, TO AN INTERSECTION WITH THE WESTWARD EXTENSION OF THE NORTH LINE OF BLOCK 140 IN SCHOOL SECTION ADDITION;

THENCE EAST ALONG SAID EXTENSION AND ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST ADAMS STREET) TO AN INTERSECTION WITH THE WEST LINE OF THE EAST 25 FEET OF LOT 5 IN THE SUBDIVISION OF BLOCKS 83, 92 AND 140 IN SCHOOL SECTION ADDITION;

THENCE SOUTH ALONG SAID WEST LINE TO AN INTERSECTION WITH THE WESTWARD EXTENSION OF THE SOUTH LINE OF THE ALLEY IN THE SUBDIVISION OF LOTS 3 AND 4 IN SAID BLOCK 140;

THENCE EAST ALONG SAID EXTENSION AND ALONG SAID SOUTH LINE TO AN ANGLE POINT;

THENCE SOUTHEASTWARDLY ALONG A SOUTHWESTERLY LINE OF SAID ALLEY TO AN ANGLE POINT;

THENCE SOUTH ALONG A WEST LINE OF SAID ALLEY AND ALONG THE SOUTHWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTH LINE OF LOT 13 IN THE AFOREMENTIONED SUBDIVISION OF BLOCKS 83, 92 AND 140;

THENCE EAST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST QUINCY STREET) TO THE NORTHEAST CORNER OF SAID LOT 13;

THENCE SOUTH ALONG THE EAST LINE OF SAID LOT TO THE SOUTH LINE OF BLOCK 140;

THENCE WEST ALONG SAID SOUTH LINE (BEING ALSO THE NORTH LINE OF WEST JACKSON BOULEVARD) AND ALONG THE WESTWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE EAST LINE OF LOTS 1, 4, 8, 11, 14, 17, 20 AND 23 IN WRIGHT'S SUBDIVISION OF BLOCK 122 IN SCHOOL SECTION ADDITION;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID EAST LINE (BEING ALSO THE WEST LINE OF SOUTH FEDERAL STREET) TO THE SOUTHEAST CORNER OF SAID LOT 23;

THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 23 AND THE WESTWARD EXTENSION THEREOF, AND ALONG THE SOUTH LINE OF LOT 22 IN WRIGHT'S SUBDIVISION (BEING ALSO THE NORTH LINE OF WEST VAN BUREN STREET) TO THE SOUTHWEST CORNER OF SAID LOT 22;

THENCE WEST, CROSSING SOUTH CLARK STREET, TO THE SOUTHEAST CORNER OF LOT 22 IN THE SUBDIVISION OF BLOCK 115 OF SCHOOL SECTION ADDITION AFORESAID;

THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 22 AND LOT 23 (BEING ALSO THE NORTH LINE OF WEST VAN BUREN STREET) TO THE SOUTHWEST CORNER OF SAID LOT 23;

THENCE WEST, CROSSING SOUTH LaSALLE STREET, TO THE SOUTHEAST CORNER OF THAT PART OF SAID STREET VACATED BY ORDINANCE PASSED FEBRUARY 29, 1980, AND RECORDED AUGUST 12, 1980, AS DOCUMENT NUMBER 25545766;

THENCE SOUTH ALONG THE SOUTHWARD EXTENSION OF THE EAST LINE OF SAID VACATION TO AN INTERSECTION WITH THE NORTH LINE OF LOT 3 IN THE SUBDIVISION OF BLOCK 114 OF SCHOOL SECTION ADDITION;

THENCE EAST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST VAN BUREN STREET) TO THE NORTHEAST CORNER OF SAID LOT;

THENCE SOUTH ALONG THE EAST LINE OF LOTS 3, 4, 9, 10, 15, 16, 21 AND 22 (BEING ALSO THE WEST LINE OF SOUTH LaSALLE STREET) TO THE SOUTHEAST CORNER OF SAID LOT 22;

THENCE SOUTH, CROSSING WEST CONGRESS PARKWAY AS SAID EXPRESSWAY IS DEFINED BY THE GENERAL ORDINANCE PASSED OCTOBER 31, 1940, TO THE INTERSECTION OF THE EAST LINE OF LOT 6 IN T.G. WRIGHT'S SUBDIVISION OF BLOCK 113 IN SCHOOL SECTION ADDITION WITH THE SOUTH LINE OF SAID WEST CONGRESS PARKWAY;

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THENCE EAST ALONG SAID SOUTH LINE TO AN INTERSECTION WITH THE EAST LINE OF LOT 9 (SAID EAST LINE BEING ALSO THE WEST LINE OF SOUTH PLYMOUTH COURT) IN C.L. AND I. HARMON'S SUBDIVISION OF BLOCK 137 IN SCHOOL SECTION ADDITION;

THENCE NORTH, CROSSING WEST CONGRESS PARKWAY, TO THE INTERSECTION OF THE EAST LINE OF LOT 24 IN T.G. WRIGHT'S SUBDIVISION OF BLOCK 138 IN SCHOOL SECTION ADDITION WITH THE NORTH LINE OF SAID EXPRESSWAY;

THENCE EAST ALONG THE NORTH LINE OF SAID WEST CONGRESS PARKWAY, AND ALONG THE NORTH LINE OF EAST CONGRESS PARKWAY, ENTERING INTO SECTION 15 AFORESAID, TO AN INTERSECTION WITH THE WEST LINE OF SUB-LOT 2 OF LOT 10 IN CANAL TRUSTEE'S SUBDIVISION OF BLOCK 10 OF FRACTIONAL SECTION 15 ADDITION TO CHICAGO;

THENCE SOUTH ALONG SAID WEST LINE TO SAID NORTH LINE OF EAST CONGRESS PARKWAY;

THENCE EAST ALONG SAID NORTH LINE TO THE EAST LINE OF SOUTH MICHIGAN AVENUE AS WIDENED;

THENCE NORTH ALONG SAID WIDENED LINE, ENTERING SECTION 10 AFORESAID, TO AN INTERSECTION WITH THE NORTH LINE OF BLOCK 6 IN FORT DEARBORN ADDITION AFORESAID;

THENCE EAST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF EAST SOUTH WATER STREET) TO AN INTERSECTION WITH THE SOUTHWARD EXTENSION OF THE EAST LINE OF LOT 6 IN DYER'S SUBDIVISION OF LOTS 6, 7, 8, 9, 10 AND 11 IN BLOCK 5 OF FORT DEARBORN ADDITION TO CHICAGO;

THENCE NORTH ALONG SAID EXTENSION, AND ALONG SAID EAST LINE, TO THE NORTHEAST CORNER OF SAID LOT;

THENCE NORTH, CROSSING A 20 FOOT WIDE ALLEY, TO A POINT ON THE SOUTH LINE OF LOT 11 IN DYER'S SUBDIVISION WHICH IS 124.00 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT;

THENCE NORTH ALONG A LINE 124.00 FEET EAST FROM, AND PARALLEL WITH, THE WEST LINE OF AFOREMENTIONED BLOCK 5, TO AN INTERSECTION WITH THE SOUTH LINE OF LOT 5 IN SAID BLOCK;

THENCE NORTH TO A POINT ON THE NORTH LINE OF LOT 1 IN SAID BLOCK WHICH IS 121.18 FEET EAST FROM THE NORTHWEST CORNER OF SAID LOT;

THENCE CONTINUING NORTH ALONG A NORTHWARD EXTENSION OF THE LAST DESCRIBED LINE TO AN INTERSECTION WITH THE NORTHERLY LINE OF EAST WACKER DRIVE (RIVER STREET) AS WIDENED;

THENCE WESTWARDLY, SOUTHWESTWARDLY, NORTH AND SOUTHWESTWARDLY ALONG SAID NORTHERLY LINE, AND ALONG THE SOUTHERLY DOCK LINE OF THE CHICAGO RIVER TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE WEST LINE OF BLOCK 8 OF FORT DEARBORN ADDITION AFORESAID;

THENCE SOUTH ALONG SAID EXTENSION TO THE POINT OF BEGINNING;
EXCEPTING FROM THE ABOVE DESCRIBED TRACT LOTS 19 THRU 25, INCLUSIVE, IN BLOCK 10 IN FORT DEARBORN ADDITION TO CHICAGO;
IN THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS.

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Chicago Oxford Associates L.P.

Redevelopment Agreement
dated as of October 20, 1999

EXHIBIT C

TIF-FUNDED IMPROVEMENTS

A schedule of TIF-Funded Improvements is attached to this exhibit cover sheet.

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EXHIBIT C

TIF-FUNDED IMPROVEMENTS

<u>Line Item</u>	<u>Cost</u>
Interior Demolition	\$828,419
Exterior Rehabilitation	\$2,403,944
Public Improvements (sidewalks)	<u>\$265,024</u>
TOTAL*	\$3,497,387

*The City's obligation to reimburse the Developer is limited to \$1,700,000, as provided in the Redevelopment Agreement.

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Chicago Oxford Associates L.P.

Redevelopment Agreement
dated as of October 20, 1999

EXHIBIT G

PERMITTED LIENS

1. Liens or encumbrances against the Property:

Those matters set forth as Schedule B title exceptions in the leasehold owner's title insurance policy issued by the Title Company dated April 7, 1999 (supplemented April 9, 1999), but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

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

None

3. Liens or encumbrances against the Mortgaged Property, other than liens or encumbrances scheduled in paragraphs 1 and 2 above, which relate to financing secured by the Property in a principal amount which is below the 93.25% of the appraised fair market value of the Mortgaged Property as determined by any subsequent appraisal obtained by any proposed lender from time to time, if any.

4. Other liens permitted under the terms of this Agreement.

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Chicago Oxford Associates L.P.

Redevelopment Agreement
dated as of October 20, 1999

EXHIBIT H-1

PROJECT BUDGET

Line Item	Amount
1. Site work/demo	\$ 892,000
2. Concrete, Masonry, Metals	\$ 1,304,000
3. Wood & Carpeting	\$ 935,000
4. Thermal & Moisture	\$ 187,000
5. Interior doors	\$ 217,500
6. Outer Skin Fabrication	\$ 1,792,500
7. Finishes	\$ 2,437,000
8. Specialties & Equipment	\$ 116,000
9. Conveying Systems	\$ 442,000
10. Mechanical Electrical	\$ 3,368,000
11. Electrical	\$ 1,289,000
12. Restaurant Construction	\$ 1,558,000
13. Asbestos Removal	\$ 421,000
14. General Contractor Fees	\$ 504,000
15. General Requirements	\$ 1,136,000
16. Interior Designer	\$ 332,000
17. Architects & Engineers	\$ 682,000
18. Hotel & Restaurant Equipment, Furniture, Furnishings	\$ 3,787,000
19. Construction-Period Rent	\$ 1,043,000
20. Construction Financing Costs, Points, Interest	\$ 1,104,000

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Line Item	Amount
21. Construction Period Taxes and Insurance	\$ 420,000
22. Organizational Costs	\$ 30,000
23. Sales & Syndication Fees	\$ 120,000
24. Developer's Fee	\$ 500,000
25. Legal, Administrative, Project Supervision	\$ 587,000
Sub Total, "Construction-Related Budget"	\$25,204,000
26. Contingencies, Project Reserves	\$ 412,000
27. Working Capital & Equity Reserves	\$ 600,000
28. Pre-Opening Expenses	\$ 1,284,000
TOTAL PROJECT BUDGET	\$27,500,000

EXHIBIT H-3

ACTUAL COST CONSTRUCTION REPORT

LINE ITEM		COST
1.	Site work/demolition	\$1,021,068
2.	Concrete, masonry, metals	\$727,271
3.	Wood & carpentry	\$1,532,363
4.	Thermal & moisture	\$181,089
5.	Interior doors	\$218,936
6.	Outer skin fabrication	\$1,656,067
7.	Finishes	\$3,071,636
8.	Specialties & equipment	\$108,792
9.	Conveying systems	\$460,793
10.	Mechanical, HVAC, plumbing	\$3,567,387
11.	Electrical	\$1,491,396
12.	Restaurant construction	\$1,264,117
13.	Asbestos removal	\$102,895
14.	General contractor fees	\$525,425
15.	General requirements	\$1,007,907
16.	Interior design	(included below)
17.	Architects & engineers	\$1,059,404
18.	Furniture, fixtures & equipment	\$3,898,629
19.	Construction-period rent	\$749,529
20.	Construction financing, points, & interest	\$943,452
21.	Construction-period taxes & insurance	\$455,487
22.	Organizational costs	\$1,833
23.	Sales & syndication fees	\$92,685
24.	Developer Fee	\$500,000
25.	Legal, administrative, project supervision	\$844,961
SUBTOTAL: Construction-Related Costs		\$25,483,122
26.	Working capital & equity reserves	\$300,000
28.	Pre-opening expenses	\$1,515,895
TOTAL PROJECT COST (ACTUAL)		\$27,299,017
Contingency remaining		\$200,983
Total Project Budget (Exhibit H-1)		\$27,500,000

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Cook County Recorder 57.00

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JUNIOR LEASEHOLD MORTGAGE

THIS JUNIOR LEASEHOLD MORTGAGE ("**Mortgage**") is made as of this 20th day of October, 1999 by CHICAGO OXFORD ASSOCIATES, L.P., a California limited partnership ("**Developer**" or "**Mortgagor**"), to the CITY OF CHICAGO, an Illinois municipal corporation, having its principal office at City Hall, 121 N. LaSalle Street, Chicago, Illinois 60602 ("**City**" or "**Mortgagee**").

RECITALS:

WHEREAS, the City Council of the City, by ordinance adopted September 9, 1998, authorized the execution by Mortgagor and the City of that certain "Chicago Oxford Associates, L.P. Redevelopment Agreement" dated as of October 20, 1999 (such agreement, as amended, supplemented or modified, the "**Redevelopment Agreement**"); and

WHEREAS, all terms, unless defined herein, shall have the meaning ascribed for them in the Redevelopment Agreement; and

This instrument was prepared by and, after recording, return to:

William A. Nyberg, Esq.
Assistant Corporation Counsel
City of Chicago
121 North LaSalle Street, Room 600
Chicago, Illinois 60602

Permanent Real Estate Tax Index Nos.:
17-10-303-001-000
17-10-303-002-000
17-10-303-003-000

Common Address:
225 North Wabash
Chicago, Illinois 60602

WHEREAS, the Redevelopment Agreement provides inter alia for the Developer to renovate the Building and Garage into a first-class Hotel located on certain real property previously leased by the Developer under the Ground Lease (hereinafter defined) and legally described in Exhibit A attached hereto (for purposes of this Mortgage, the "**Land**"); and

WHEREAS, the Project shall be undertaken by Mortgagor in part by utilizing the City Funds, in the maximum aggregate amount of \$1,700,000, to pay for or reimburse the Developer for costs incurred for certain Redevelopment Project Costs comprising TIF Funded Improvements, as are further described in the Redevelopment Agreement; and

WHEREAS, the City Funds have been or will be derived from the proceeds of the City's Tax Increment Allocation Bonds (Central Loop Redevelopment Project) Series 1997, specifically the taxable series thereof, or Incremental Taxes from the Redevelopment Area, and any use of the City Funds must be in accordance with any laws, regulations and ordinances governing the use of such funds, including, without limitation, the Illinois Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (1996 State Bar Edition), as amended ("**TIF Act**"); and

WHEREAS, as consideration for the use of the City Funds to complete the Project as well as the receipt of other benefits from the City as are described in the Redevelopment Agreement, Mortgagor has agreed to construct the Project in accordance with the terms and conditions of the Redevelopment Agreement, and, until the expiration of the Term of the Agreement, to abide by certain use, performance and job creation covenants running with and affecting the Land as are set forth in Sections 8.02 (Covenant to Redevelop) and 8.06 (Job Creation and Retention; Covenant to Remain in the City) of the Redevelopment Agreement (such covenants relating to construction of the Project, use, performance and job creation referred to collectively herein as the "**Use and Performance Covenants**"); and

WHEREAS, Developer has also agreed to overpayment obligations under Section 4.03(e) of the Redevelopment Agreement (the "**Overpayment Obligations**"), if after taking into account any reduction in the aggregate amount of City Funds, the Developer has received a greater amount of City Funds than is provided for in the Redevelopment Agreement; and

WHEREAS, the failure of the Developer to perform under the Use and Performance Covenants of the Redevelopment Agreement described above shall give rise to an Event of Default as described in Article Fifteen (Default and Remedies) of the Redevelopment Agreement and to certain Repayment Obligations regarding the City Funds under Section 5.17 of the Redevelopment Agreement (the "**Repayment Obligations**"); and

WHEREAS, the City is desirous of securing the performance of the Use and Performance Covenants, the Overpayment Obligations, and Repayment Obligations of the Developer described in the Redevelopment Agreement;

NOW, THEREFORE, to secure the performance and observance by Mortgagor of its Use and Performance Covenants, the Overpayment Obligations, and Repayment Obligations, and the covenants, conditions and agreements of this Mortgage, and in order to charge the properties,

interests and rights hereinafter described with such consideration, Mortgagor has executed and delivered the Mortgage and does hereby grant, convey, assign, mortgage, grant a security interest in, and confirm unto, Mortgagee and its successors and assigns, all of the following rights, interests, claims and property in the leasehold estate (the "**Leasehold Estate**") created pursuant to that certain Ground Lease dated as of December 31, 1996, as the same may have been heretofore amended (the "**Ground Lease**"), between American National Bank and Trust Company Trust No. 21825, as landlord ("**Landlord**"), and Mortgagor, as tenant, relating to the Land, together with the other property described below, owned by Mortgagor or used by Mortgagor under the Ground Lease (which is hereinafter sometimes referred to as "**Mortgaged Property**"), subject to the title matters, liens and encumbrances set forth in Exhibit B attached hereto:

(A) The Leasehold Estate, together with all easements, water rights, hereditaments, mineral rights and other rights and interests appurtenant thereto;

(B) All buildings, structures and other improvements of every nature whatsoever now or hereafter situated on the Land, including, without limitation, the Hotel and related improvements that are the subject matter of the Project, all fixtures or attachments of every kind and nature whatsoever now or hereafter owned by Mortgagor which are or shall be attached to, located in or on, forming a part of, used or intended to be used in connection with or incorporated in the Land or such buildings, structures and other improvements, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing ("**Improvements**");

(C) All tenements, easements, rights-of-way and rights used as a means of access to the Land and Improvements and appurtenances thereto now or hereafter belonging or pertaining thereto;

(D) All rents and issues of the Land and Improvements from time to time and all of the estate, right, title, interest, property, possession, claim and demand at law, as well as in equity, of Mortgagor, in and to the same;

(E) all right, title and interest of Mortgagor in and to all fixtures, personal property of any kind or character now or hereafter attached to, contained in and used or useful in connection with the Land or the Improvements (excluding the names "Monaco" and "Kimpton"), together with all furniture, floor coverings, fittings, furnishings, apparatus, goods, systems, fixtures and other items of personal property of every kind and nature, now or hereafter located in, upon or affixed to the Land or the Improvements, or used or useful in connection with any present or future operation of the Land or the Improvements, including, but not limited to, all apparatus and equipment used to supply heat, gas, air conditioning, water, light, power, refrigeration, electricity, plumbing and ventilation, including all renewals, additions and accessories to and replacements of and substitutions for each and all of the foregoing, and all proceeds therefrom (**the "Equipment"**);

(F) all of the estate, interest, right, title or other claim or demand which Mortgagor now has or may acquire with respect to: (i) proceeds of insurance in effect with respect to the Land, the Improvements or the Equipment, and (ii) any and all awards, claims for damages, judgments, settlements and other compensation made for or consequent upon the taking by condemnation,

(F) all of the estate, interest, right, title or other claim or demand which Mortgagor now has or may acquire with respect to: (i) proceeds of insurance in effect with respect to the Land, the Improvements or the Equipment, and (ii) any and all awards, claims for damages, judgments, settlements and other compensation made for or consequent upon the taking by condemnation, eminent domain or any like proceeding of all or any portion of the Land, the Improvements or the Equipment;

(G) all other property rights of Mortgagor of any kind or character related to all or any portion of the Land, the Improvements or the Equipment, including the option and right to purchase the same pursuant to the terms and provisions of the Ground Lease or otherwise; and

(H) the proceeds from the sale, transfer or other disposition of any or all of the property described in the preceding clauses (which shall not include proceeds of any financing secured by the Mortgaged Property) which are occasioned by a foreclosure of, or other exercise of remedies under, the First Mortgage, any Permanent Mortgage or this Mortgage.

All of the Land, Improvements, estate and property hereinabove described, real, personal and mixed, whether or not affixed or annexed, and all rights hereby conveyed and mortgaged are intended so to be as a unit and are hereby understood, agreed and declared, to the maximum extent permitted by law, to form a part and parcel of the Land and Improvements and to be appropriated to the use thereof, and shall for the purposes of the Mortgage be deemed to be conveyed and mortgaged hereby as part of the Leasehold Estate created pursuant to, and subject to the provisions of, the Ground Lease; provided, however, as to any property, aforesaid which does not so form a part and parcel of the Land and Improvements, the Mortgage is hereby deemed also to be a Security Agreement under the Uniform Commercial Code of the State of Illinois (the "Code") for the purposes of granting a security interest in such property, which Mortgagor hereby grants to Mortgagee as secured party (as defined in the Code) and as also contemplated and provided for in Section 5.4 hereof.

TO HAVE AND TO HOLD the Mortgaged Property and all parts thereof unto Mortgagee, its successors and assigns, to its own proper use, benefit and advantage, subject, however, to the terms, covenants and conditions herein;

WITHOUT limitation of the foregoing, Mortgagor hereby further grants unto Mortgagee, pursuant to the provisions of the Code, a security interest in all of the above-described property which are or are to become fixtures.

THIS MORTGAGE IS GIVEN TO SECURE: (a) the performance by the Developer of the Use and Performance Covenants, (b) Developer's Overpayment Obligations, (c) Developer's Repayment Obligations and (d) performance of each and every of the covenants, conditions and agreements contained in this Mortgage.

ARTICLE I

INCORPORATION OF RECITALS

The recitals set forth above constitute an integral part of the Mortgage and are hereby incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

The Mortgagor covenants, represents and warrants to Mortgagee that:

2.1 Title

Mortgagor: (a) is the holder of the Leasehold Estate in the Land, free and clear of all liens and encumbrances, except those set forth in Exhibit B; and (b) has legal power and authority to Mortgage and convey the Mortgaged Property.

2.2 Taxes and Assessments.

(a) Mortgagor will pay when due all general taxes and assessments, special assessments, water charges and all of the charges against the Mortgaged Property and shall, upon written request, furnish to Mortgagee receipts evidencing payment thereof, provided that Mortgagor, in good faith and with reasonable diligence, may contest the validity or amount of any such taxes, assessments or charges, provided that during any such contest the enforcement of the lien of such taxes, assessments or charges is stayed or is otherwise in compliance with the applicable provisions of the Redevelopment Agreement with respect thereto.

(b) Mortgagor will not suffer (unless bonded or insured over) any mechanic's, laborer's, materialmen's, or statutory lien to remain outstanding upon any of the Mortgaged Property. Mortgagor may contest such lien, provided that Mortgagor shall first post a bond in the amount of the contested lien, or provide title insurance over such contested lien, and further provided that Mortgagor shall diligently prosecute the contested lien and cause the removal of the same.

2.3 Insurance.

Mortgagor shall keep the Mortgaged Property continuously insured in such amounts and against such risks as are required of Mortgagor by the Redevelopment Agreement, paying the premiums for said insurance as they become due. Policies of insurance shall name Mortgagee as an additional insured. All policies of insurance shall provide that the same shall not be canceled, except upon sixty (60) days prior written notice to Mortgagee.

2.4 Maintenance of the Property,

(a) Mortgagor shall preserve and maintain the Mortgaged Property in good condition and repair, shall not commit or suffer any waste thereof, and shall keep the same in a clean, orderly and attractive condition. Mortgagor shall not do or suffer to be done anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof.

(b) If the Mortgaged Property or any part thereof is damaged by fire or any other cause, Mortgagor will immediately give written notice of the same to Mortgagee.

(c) Mortgagee or its representatives shall have the right to inspect the Mortgaged Property upon reasonable prior notice at reasonable times to assure compliance with the terms of the Mortgage.

(d) Mortgagor shall promptly comply, and cause the Mortgaged Property to comply, with all present and future laws, ordinances, orders, rules and regulations and other requirements of any governmental authority affecting the Mortgaged Property or any part thereof and with all instruments and documents of record or otherwise affecting the Mortgaged Property or any part thereof.

2.5 Subordination: Junior Mortgage.

Mortgagee by acceptance of the Mortgage acknowledges that the Mortgage is and shall be junior, subject and subordinate in all respects to the leasehold mortgage dated January 20, 1998 and recorded on February 18, 1998 as document number 98128487 made by Mortgagor to LaSalle National Bank (the "**Senior Lender**") to secure an indebtedness in the amount of \$14,500,000.00 and to the security interest of the Senior Lender in certain described chattels on the Land, as disclosed by financing statement executed by Mortgagor and filed February 20, 1998 as document No. 98U01933 (collectively, such leasehold mortgage and security interest are defined herein as the "**First Mortgage**"), and shall also be subordinate to any mortgage(s) (all such mortgages, a "**Permanent Mortgage**") that replace the First Mortgage (or any Permanent Mortgage) and which secure financing in a principal amount not to exceed the amounts set forth in Section 16(c) of the Redevelopment Agreement, to wit: 93.25% of the appraised fair market value of Mortgagor's entire interest in the Mortgaged Property as determined by any subsequent appraisal obtained by any proposed Permanent Mortgage lender from time to time. The agreement by the Mortgagee to be subordinate to a Permanent Mortgage on the terms hereunder shall be reflected by a subordination agreement between the Mortgagee and the lender named as the mortgagee under such Permanent Mortgage, at the request of such lender. All future lenders under Permanent Mortgages shall also be referred to as a Senior Lender during the terms of their loan.

2.6 Land Trust.

The trust agreement pursuant to which the Landlord holds the Land is a "land trust" as said term is defined in Section 5/15-1205 of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et seq., (1996 State Bar Edition) as amended, supplemented and restated from time to time.

ARTICLE III

PERFORMANCE OF GROUND LEASE OBLIGATIONS

3.1 Warrant and Defend Leasehold Estate.

Mortgagor, for so long as this Mortgage is operative, shall warrant and defend unto Mortgagee the Leasehold Estate for the entire remainder of the term set forth therein, together with all extensions of such term, against all persons lawfully claiming, or who may claim the same or any part thereof, subject only to the payment of the rents provided for in the Ground Lease and to the performance and observance of all of the terms, covenants, conditions and warranties thereof. Nothing contained in this Mortgage shall inhibit or prohibit Mortgagor from exercising any option rights to acquire the fee title under the Leasehold Estate. In such instance, the provisions of Section 3.6 shall apply.

3.2 Payment of all Rents and Charges.

Mortgagor shall pay or cause to be paid when due all rents, additional rents, taxes, assessments and other charges mentioned in and made payable by the Ground Lease, and upon request from Mortgagee at any time and from time to time, Mortgagor will cause receipts for such payments to be delivered to Mortgagee.

3.3 Performance of Covenants.

Mortgagor shall at all times promptly and faithfully keep and perform all of the covenants, agreements and obligations contained in the Ground Lease and comply with all of the terms, provisions and conditions thereof. Mortgagor further covenants that it will not do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, will, in Mortgagee's reasonable judgement, impair or tend to impair the security of this Mortgage or will be grounds for declaring a default or forfeiture of the Ground Lease.

3.4 No Modification.

(a) Mortgagor shall not modify, extend or in any way alter the material terms of the Ground Lease, or cancel or surrender the Ground Lease, or waive, excuse or in any way release or discharge Landlord for or from the material obligations, covenants, conditions and agreements to be performed by Landlord thereunder, without Mortgagee's prior written consent, which shall not be unreasonably withheld or delayed.

(b) For purposes of this section and this Mortgage, the term "material" includes any amendment, alteration, modification, waiver, release, discharge or other change or action of any kind, nature or description to the Ground Lease which: (i) adversely affects Mortgagor's ability to perform its duties under the Redevelopment Agreement or this Mortgage; (ii) impairs performance of this Use and Performance Covenants stated in the Redevelopment Agreement; (iii) adversely

affects the priority, validity or enforceability of the lien and security interest created by this Mortgage in the Mortgaged Property, or (iv) adversely affects the value or utility of the Mortgaged Property.

3.5 Failure to Perform.

In the event of any failure by Mortgagor to perform any covenant, agreement or obligation to be observed and performed by Mortgagor under the Ground Lease, the performance by Mortgagee on behalf of Mortgagor of said covenant, agreement or obligation shall not remove or waive, as between Mortgagor and Mortgagee, the corresponding default under the terms hereof and any amounts so advanced or costs incurred in connection therewith, together with statutory interest thereon, shall become immediately due and payable by Mortgagor to Mortgagee and secured by this Mortgage.

3.6 No Merger.

So long as any of the obligations secured by this Mortgage shall remain unperformed, the fee title to the Real Estate and the Leasehold Estate shall not merge, but shall always be kept separate and distinct, notwithstanding the union of said estates either in Landlord, Mortgagor or in a third party, by purchase or otherwise; and Mortgagor further covenants and agrees that, in the event that it shall acquire the fee title or any other estate, title or interest in the Land and Improvements or any other property subject to the Ground Lease, this Mortgage shall attach to and be a lien upon such fee title or other estate, title or interest and such fee title or other estate, title or interest so acquired by Mortgagor shall be considered as mortgaged, assigned and conveyed to Mortgagee and the lien hereof spread to cover such fee title or other estate, title or interest with the same force and effect as if specifically herein mortgaged, assigned, conveyed and spread.

ARTICLE IV

DEFAULT

4.1 Events of Default.

The terms "**Event of Default**" or "**Events of Default**," wherever used in the Mortgage, shall mean the failure by Mortgagor to duly observe or perform any material term, covenant, condition, or agreement of the Mortgage or the Use and Performance Covenants or the Overpayment Obligations or the Repayment Obligations after the expiration of all cure periods as provided herein or in the Redevelopment Agreement.

4.2 Remedies.

(a) Subject to the rights of the Senior Lender, if an Event of Default occurs, Mortgagee shall have the right to foreclose the lien hereof for such obligation or part thereof; provided, however that such obligation is subject to a declining balance as set forth in Section 5.17 of the

Redevelopment Agreement, and Mortgagor's liability hereunder shall not exceed such declining balance amount as it declines over time. The Mortgage may be foreclosed successively and in parts, until all of the Mortgaged Property has been foreclosed against. In any such foreclosure, or upon the enforcement of any other remedy of Mortgagee under the Mortgage, there shall be allowed and included as additional indebtedness, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraisers, fees, outlays for documentary and expert evidence, stenographers, charges, publication costs, and costs involved in title insurance and title examinations. All expenditures and expenses of the nature as described in this Section 4.2, and such expenses and fees as may be incurred in the protection of the Mortgaged Property and the maintenance of the lien of the Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting the Mortgage or the Mortgaged Property, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the lesser of the highest rate permitted by law or fifteen percent (15%) per annum, and shall be secured by the Mortgage. The proceeds of any foreclosure sale of the Mortgaged Property shall be distributed and applied in the following order of priority: (i) on account of all costs and expenses incidental to the foreclosure proceedings, including all such items as are mentioned in this section; (ii) all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Mortgage; (iii) all amounts to be paid pursuant to the recapture provisions described in the Redevelopment Agreement with respect to the Overpayment Obligations or the Repayment Obligations; and (iv) any remaining amounts due to Mortgagor, its successors or assigns, as their rights may appear.

(b) Mortgagor shall not and will not apply for or avail itself of any appraisalment, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of the Mortgage, but hereby waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Mortgaged Property marshaled upon any foreclosure of the lien hereof, and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold as an entirety. Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of the Mortgage on its behalf and on behalf of each and every person, except decree or judgment creditors of Mortgagor, acquiring any interest in or title to the Mortgaged Property subsequent to the date of the Mortgage.

(c) Upon any other entering upon or taking of possession of the Mortgaged Property after the occurrence of an Event of Default and the expiration of the applicable cure period and other than by means of a foreclosure, Mortgagee, subject to the rights of the Senior Lender, may hold, use, manage and control the Mortgaged Property and, from time to time: (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property required in connection therewith; (ii) insure or keep the Mortgaged Property insured; (iii) manage the Mortgaged Property and exercise all the rights and powers of Mortgagor to the same extent as Mortgagor could in its own name or otherwise with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to

Mortgagee, all as Mortgagee from time to time may reasonably determine to be to its best advantage. Subject to the rights of the Senior Lender, Mortgagee may collect and receive all the rents, issues, profits and revenues of the same, including those past due as well as those accruing thereafter, and, after deducting to the extent reasonable: (aa) expenses of taking, holding and managing the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions; (cc) the cost of such insurance; (dd) such taxes, assessments and other similar charges as Mortgagee may determine to pay; (ee) other proper charges upon the Mortgaged Property or any part thereof; and (ff) the reasonable compensation, expenses and disbursements of the attorneys and agents of Mortgagee, shall apply the remainder of the monies and proceeds so received by Mortgagee to payment of the Overpayment Obligations or the Repayment Obligations. The balance of such funds, if any, after payment in full, of all of the aforesaid amounts shall be paid to Mortgagor.

4.3 Mortgagee's Performance of Defaulted Acts and Expenses Incurred by Mortgagee.

Subject to the rights of the Senior Lender, if an Event of Default has occurred, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient by Mortgagee, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Project or consent to any tax or assessment or cure any default of Mortgagor in the Ground Lease or any sublease of the Project. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee in regard to any tax referred to in Section 4.2(c) above or to protect the Project or the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable by Mortgagor to Mortgagee, upon demand, and with interest thereon at the default rate (as defined in Section 4.2(a)) then in effect. In addition to the foregoing, any costs, expenses and fees, including reasonable attorney's fees, incurred by Mortgagee in connection with: (a) sustaining the lien of this Mortgage or its priority; (b) protecting or enforcing any of Mortgagee's rights hereunder; (c) recovering any indebtedness secured hereby; (d) any litigation or proceedings affecting this Mortgage, the Project or the Ground Lease, including without limitation, bankruptcy and probate proceedings; or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings affecting this Mortgage, the Project or the Ground Lease, shall be additional indebtedness secured hereby, and shall become immediately due and payable by Mortgagor to Mortgagee, upon demand, and with interest thereon at the default rate as provided in Section 4.2(a). The interest accruing under this Section shall be immediately due and payable by Mortgagor to Mortgagee, and shall be additional indebtedness secured by this Mortgage. Mortgagee's failure to act shall never be considered as a waiver of any right accruing to Mortgagee on account of any Event of Default. Should any amount paid out or advanced by Mortgagee hereunder, or pursuant to any agreement executed by Mortgagor, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Project or any part thereof, then Mortgagee shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding

liens, charges and indebtedness, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

4.4 Receiver.

Subject to the rights of the Senior Lender, if an Event of Default shall have occurred and be continuing after an applicable cure period has expired, Mortgagee, upon application to a court of competent jurisdiction, shall be entitled to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect and apply the rents, issues, profits and revenues thereof. The receiver shall otherwise have all of the rights and powers to the fullest extent permitted by law.

4.5 Purchase by Mortgagee.

Upon any foreclosure sale, Mortgagee may bid for and purchase the Mortgaged Property and shall be entitled to apply all or any part of the indebtedness secured hereby as a credit to the purchase price; provided, however, that the Senior Lender has been paid in full.

4.6 Remedies Cumulative.

No right, power or remedy conferred upon or reserved to Mortgagee by the Mortgage is intended to be exclusive of any other right, power or remedy, but each and every right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law, in equity or by statute.

4.7 Waiver.

No delay or omission of Mortgagee or of any holder of the Note to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by the Mortgage to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee. No consent or waiver, expressed or implied, by Mortgagee to or of any breach or Event of Default by Mortgagor in the performance of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or Event of Default in the performance of the same or any other obligations of Mortgagor hereunder. Failure on the part of Mortgagee to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Mortgagee of its rights hereunder or impair any rights, powers or remedies on account of any breach or default by Mortgagor.

ARTICLE V

MISCELLANEOUS PROVISIONS

5.1 Successors and Assigns.

The Mortgage shall inure to the benefit of and be binding upon Mortgagor and Mortgagee and their respective legal representatives, successors and assigns. Whenever a reference is made in the Mortgage to Mortgagor or to Mortgagee, such reference shall be deemed to include a reference to legal representatives, successors and assigns of Mortgagor or Mortgagee, as applicable.

5.2 Terminology.

All personal pronouns used in the Mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and sections are for convenience only and neither limit nor amplify the provisions of the Mortgage, and all references herein to articles, sections or paragraphs shall refer to the corresponding articles, sections or paragraphs of the Mortgage unless specific reference is made to such articles, sections or paragraphs of another document or instrument.

5.3 Severability.

If any provision of the Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of the Mortgage and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the extent permitted by law.

5.4 Security Agreement.

The Mortgage shall be construed as a "Security Agreement" within the meaning of, and shall create a security interest under, the Code as adopted by the State of Illinois with respect to any part of the Mortgaged Property which constitutes fixtures or personal property in which such a security interest is intended to be granted as provided in the Mortgage; provided, that such security interest shall also be subordinate to any security interest granted in the Mortgaged Property by the Mortgagor in favor of the Senior Lender. Mortgagee shall have all the rights with respect to such fixtures and personal property afforded to it by said Code in addition to, but not in limitation of, the other rights afforded Mortgagee by the Mortgage or any other agreement.

5.5 UCC Form-1.

Mortgagee shall prepare a State of Illinois UCC Form-1 covering the proceeds from the sale of any Mortgaged Property for filing with the appropriate office of the Illinois Secretary of State and such UCC Form-1 shall be filed by the Title Company as a part of the filing and recordation of this Mortgage.

5.6 Modification.

No change, amendment, modification, cancellation or discharge hereof, or of any part hereof, shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns.

5.7 No Merger.

It being the desire and intention of the parties that the mortgage and the lien hereof do not merge in fee simple title to the Mortgaged Property, it is hereby understood and agreed that should Mortgagee acquire any additional or other interests in or to said property or the ownership thereof, then, unless a contrary interest is manifested by Mortgagee as evidenced by an appropriate document duly recorded, the Mortgage and the lien hereof shall not merge in the fee simple title, toward the end that this mortgage may be foreclosed as if owned by a stranger to the fee simple title.

5.8 Applicable Law.

This Mortgage is submitted to the City at City Hall in the City of Chicago, State of Illinois, and shall be deemed to have been made thereat. This Mortgage shall be governed and controlled as to interpretation, enforcement, validity, construction, effect and in all other respects by the laws, statutes and decisions of the State of Illinois. Mortgagor, in order to induce the City to accept this Mortgage, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agrees that all actions or proceedings arising directly, indirectly or otherwise in connection with, out of, related to or from this Mortgage shall be litigated, at the City's sole discretion and election, only in courts having a situs within the County of Cook, State of Illinois. Mortgagor hereby consents and submits to the jurisdiction of any local, state or Federal court located within said county and state. **TO THE EXTENT PERMITTED BY LAW, MORTGAGOR' HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE CITY TO ENTER INTO THE REDEVELOPMENT AGREEMENT WITH MORTGAGOR.**

5.9 Notices.

All notices and any other communications under this Mortgage will: (a) be in writing; (b) be sent by: (i) telecopier/fax machine, (ii) delivered by hand, (iii) delivered by an overnight courier service which maintains records confirming the receipt of documents by the receiving party, or (iv) registered or certified U.S. Mail, return receipt requested; (c) be given at the following respective addresses:

If to the City: City of Chicago
Department of Planning and Development
Attn: Commissioner
121 North LaSalle Street, Room 1000
Chicago, IL 60602
312/744-4471 (Main No.)
312/744- 2271 (Fax)

With Copies to: City of Chicago
Corporation Counsel
Attn: Finance and Economic Development Division
121 North LaSalle Street, Room 600
Chicago, IL 60602
312/744-0200 (Main No.)
312/744-8538 (Fax)

If to the Mortgagor: Chicago Oxford Associates, L.P.
c/o Kimpton Hotel & Restaurant Group, Inc.
Attn: President
222 Kearny Street, Suite 200
San Francisco, California 94108
415/397-5572 (Main No.)
415/296-8031 (Fax)

With Copies to: Maria N. Saldana, Esq.
Alzheimer & Gray
10 South Wacker Drive, Suite 3800
Chicago, Illinois 60606
312/715-4000 (Main No.)
312/715-4800 (Fax)

or at such other address or telecopier/fax or telephone number or to the attention of such other person as the party to whom such information pertains may hereafter specify for the purpose in a notice to the other specifically captioned "Notice of Change of Address" and , (d) be effective or deemed delivered or furnished: (i) if given by telecopier/fax, when such communication is confirmed to have been transmitted to the appropriate telecopier/fax number specified in this section, and confirmation

is deposited into the U.S. Mail, postage prepaid to the recipient's address shown herein; (ii) if given by hand delivery or overnight courier service, then left at the address of the addressee, properly addressed as provided above.

5.10 Reconveyance or Release.

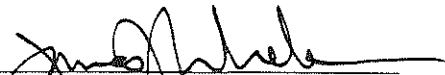
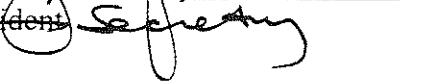
Unless earlier terminated, this Mortgage shall automatically expire and be of no further force or effect on June 19, 2007. Upon expiration or earlier termination of the Redevelopment Agreement, Mortgagee shall, upon Mortgagor's written request, execute a reconveyance or other acceptable form of release of this Mortgage in recordable form.

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

IN WITNESS WHEREOF, Mortgagor has executed this instrument as of the day and year first above written.

CHICAGO OXFORD ASSOCIATES, L.P.,
a California limited partnership

By: 225 Wabash, Inc., a California
corporation, its general partner

By: 
Its: ~~President~~ 

Prepared by and to be returned to:

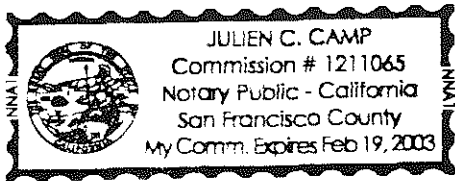
William A. Nyberg, Esq.
Assistant Corporation Counsel
City of Chicago
121 North LaSalle Street, Room 600
Chicago, Illinois 60602

99994867

CALIFORNIA)
STATE OF ILLINOIS)
SAN FRANCISCO) SS
COUNTY OF COOK)

I, JULIEN C. CAMP, a notary public in and for the said County, in the State aforesaid. DO HEREBY CERTIFY that JAMES J. WITELA, personally known to me to be the SECRETARY of 225 Wabash, Inc., a California corporation, which is the general partner of Chicago Oxford Associates L.P., a California limited partnership, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of the Company, as his/her free and voluntary act and as the free and voluntary act of the Company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 19th day of OCTOBER, 1999.



JULIEN C. CAMP
Notary Public

My Commission Expires 2/19/03

(SEAL)

**JUNIOR LEASEHOLD MORTGAGE
EXHIBIT A**

(Legal Description)

LOTS 1, 2, 3, 4, AND 5 IN BLOCK 7 IN FORTH DEARBORN ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39-NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N. 17-10-303-001-000
 17-10-303-002-000
 17-10-303-003-000

Commonly known as 225 North Wabash Avenue, Chicago, Cook County, Illinois.

**JUNIOR LEASEHOLD MORTGAGE
EXHIBIT B**

Permitted Liens

1. Liens or encumbrances against the Property:

Those matters set forth as Schedule B title exceptions in the leasehold owner's title insurance policy issued by the Title Company dated April 7, 1999 (as supplemented April 9, 1999) but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

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

None

3. Liens and encumbrances against the Mortgaged Property, other than liens or encumbrances scheduled in paragraphs 1 and 2 above, but which relate to financing secured by the Property in a principal amount which is below the 93.25% of the appraised fair market value of the Mortgaged Property as determined by any subsequent appraisal obtained by any proposed lender from time-to-time, if any.

This STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code.

For Filing Officer (Date, Time, Number, and Filing Office)

Debtor(s) (Last Name) and address(es)
Chicago Oxford Associates, L.P.
c/o Kimpton Hotel & Restaurant Group,
Inc.
222 Kearney Street, Suite 200
San Francisco, CA 94108

Secured Party(ies) and address(es)
City of Chicago, Department of Planning and
Development
121 North LaSalle Street, Room 1000
Chicago, IL 60602

1. This financing statement covers the following types (or items) of property:
See Exhibit A hereto and made a part hereof.

ASSIGNEE OF SECURED PARTY

2. (If collateral is crops) The above described crops are growing or are to be grown on: (Describe Real Estate)

3. (If applicable) The above goods are to become fixtures on (The above timber is standing on ...) (The above minerals or the like (including oil and gas) accounts will be financed at the wellhead or minehead of the well or mine located on ...) (Strike what is inapplicable) (Describe Real Estate)

and this financing statement is to be filed in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is

4. Products of Collateral are also covered.

Additional sheets presented.

By: See Attached Signature Page

Filed with Recorder's Office of _____ County, Illinois.

By: _____
Signature of (Debtor)

(Secured Party)*

FILE COPY-DEBTOR(S)

Rev. 3/75

* Signature of Debtor Required in Most Cases;
Signature of Secured Party in Cases Covered By UCC §9-402(2)

This form of financing statement is approved by the Secretary of State.

X

This STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code.

For Filing Officer (Date, Time, Number, and Filing Office)

Debtor(s) (Last Name) and address(es)

Chicago Oxford Associates, L.P.
c/o Kimpton Hotel & Restaurant Group,
Inc.
222 Kearney Street, Suite 200
San Francisco, CA 94108

Secured Party(ies) and address(es)

City of Chicago, Department of Planning and
Development
121 North LaSalle Street, Room 1000
Chicago, IL 60602

1. This financing statement covers the following types (or items) of property:
See Exhibit A hereto and made a part hereof.

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2. (If collateral is crops) The above described crops are growing or are to be grown on: (Describe Real Estate)

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4. Products of Collateral are also covered.

Additional sheets presented.

See Attached Signature Page

Filed with Recorder's Office of _____ County, Illinois.

By:

Signature of (Debtor)

By:

(Secured Party)*

FILING OFFICER COPY — ALPHABETICAL

Rev. 3/75

* Signature of Debtor Required in Most Cases;
Signature of Secured Party in Cases Covered By UCC §9-402(2)

This form of financing statement is approved by the Secretary of State.

This STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code.

Debtor(s) (Last Name) and address(es)
Chicago Oxford Associates, L.P.
c/o Kimpton Hotel & Restaurant Group,
Inc.
222 Kearney Street, Suite 200
San Francisco, CA 94108

Secured Party(ies) and address(es)
City of Chicago, Department of Planning and
Development
121 North LaSalle Street, Room 1000
Chicago, IL 60602

For Filing Officer (Date, Time,
Number, and Filing Office)

1. This financing statement covers the following types (or items) of property:
See Exhibit A hereto and made a part hereof.

ASSIGNEE OF SECURED PARTY

2. (If collateral is crops) The above described crops are growing or are to be grown on: (Describe Real Estate)

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and this financing statement is to be filed in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is

4. Products of Collateral are also covered.

Additional sheets presented.

Filed with Recorder's Office of _____ County, Illinois.

By: See Attached Signature Page

By: _____
Signature of (Debtor)

(Secured Party)*

FILING OFFICER COPY — NUMERICAL

Rev. 3/75

* Signature of Debtor Required in Most Cases;
Signature of Secured Party in Cases Covered By UCC §9-402(2)

This form of financing statement is approved by the Secretary of State.

This STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code.

For Filing Officer (Date, Time, Number, and Filing Office)

Debtor(s) (Last Name) and address(es)

Secured Party(ies) and address(es)

Chicago Oxford Associates, L.P.
c/o Kimpton Hotel & Restaurant Group, Inc.
222 Kearney Street, Suite 200
San Francisco, CA 94108

City of Chicago, Department of Planning and Development
121 North LaSalle Street, Room 1000
Chicago, IL 60602

1. This financing statement covers the following types (or items) of property:
See Exhibit A hereto and made a part hereof.

ASSIGNEE OF SECURED PARTY

2. (If collateral is crops) The above described crops are growing or are to be grown on: (Describe Real Estate)

3. (If applicable) The above goods are to become fixtures on (The above timber is standing on ...) (The above minerals or the like (including oil and gas) accounts will be financed at the wellhead or minehead of the well or mine located on ...) (Strike what is inapplicable) (Describe Real Estate)

and this financing statement is to be filed in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is

4. Products of Collateral are also covered.

Additional sheets presented.

By: See Attached Signature Page

Filed with Recorder's Office of _____ County, Illinois.

By:

Signature of (Debtor)

By:

(Secured Party)*

FILING OFFICER COPY — NUMERICAL

Rev. 3/75

* Signature of Debtor Required in Most Cases;
Signature of Secured Party in Cases Covered By UCC §9-402(2)

This form of financing statement is approved by the Secretary of State.

This UCC-1 is executed as of this 18th day of October, 1999.

DEBTOR:

CHICAGO OXFORD ASSOCIATES, L.P.,
a California limited partnership

By: 225 WABASH, INC., a California corporation.
Its: General Partner


By: 
Name: James J. WHELAN
Its: SECRETARY

EXHIBIT A

This financing statement covers the following types of property:

Proceeds from the sale, transfer or other disposition of any or all of the property secured by that certain Junior Leasehold Mortgage dated October 20th, 1999, by and between Debtor and Secured Party (the "Junior Leasehold Mortgage") and defined therein as "Mortgaged Property," (excluding proceeds of any financing secured by the Mortgaged Property), which are occasioned by a foreclosure of, or other exercise of remedies under the first Mortgage (as defined in the Junior Leasehold Mortgage), any Permanent Mortgage (as defined in the Junior Leasehold Mortgage) or the Junior Leasehold Mortgage.

PUBLIC BENEFITS AGREEMENT

THIS PUBLIC BENEFITS AGREEMENT ("Agreement") is made and entered into as of the 20th day of October, 1999, by and between the CITY OF CHICAGO, an Illinois municipal corporation, having its principal office at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 ("City"), and CHICAGO OXFORD ASSOCIATES, L.P., a California limited partnership qualified to do business in Illinois, having its principal address at 222 Kearny Street, Suite 200, San Francisco, California 94108 ("Developer").

WITNESSETH:

WHEREAS, the City and the Developer have executed that certain Chicago Oxford Associates, L.P. Redevelopment Agreement dated October 20, 1999 ("Redevelopment Agreement") relating to the Developer's lease of property located at 225 North Wabash Avenue, Chicago, Illinois 60602 (the "Subject Property") and the redevelopment of the building and adjacent garage located on the Subject Property by renovation of the former Oxford House Hotel resulting in the Hotel Monaco consisting of approximately one hundred ninety-one (191) guest rooms, a restaurant, meeting space and parking garage, and construction of certain public infrastructure improvements (the "Project"); and

WHEREAS, all capitalized terms in this Agreement, unless otherwise defined herein, shall have the meanings ascribed for them in the Redevelopment Agreement; and

WHEREAS, in consideration of the City entering into the Redevelopment Agreement and providing the City Funds towards the cost of the Project pursuant to the terms of the Redevelopment Agreement, and as required in the Redevelopment Agreement, Developer has agreed to provide the City certain public benefits, all as described more fully below:

NOW THEREFORE, in consideration of the foregoing preambles, each of which is made a contractual part hereof, and of the mutual covenants and agreements contained herein and in the Redevelopment Agreement, the parties agree as follows:

1. Public Benefits Program. Developer shall provide, or cause its successors or assigns to provide, as public benefits to the City, the services and benefits set forth in Schedule I attached hereto and incorporated herein by this reference ("Public Benefits Program"). Developer's commitment and agreement to provide the Public Benefits Program shall last for the Term of the Agreement.

2. Reporting. Annually during the first week of April of each year during the Term of the Agreement, Developer shall submit a general activity report for the Public Benefits Program covering the preceding annual period and, to the extent feasible and foreseeable, projecting activities anticipated to occur for the upcoming annual period with respect to the Public Benefits Program. Such reports shall be addressed and submitted to the Department of Planning and Development of the City (to the attention of the City's Commissioner of Planning and Development) at the address therefor set forth in Paragraph 4 below.

3. Default. Failure of Developer to comply with the terms and conditions of this Agreement, which failure continues uncured for a period of ninety (90) days after written notice of default from the City, shall be a default hereunder.

4. Notice. Any notice or submission required or desired to be given pursuant to or in connection with this Agreement shall be in writing and shall be mailed postage prepaid by registered or certified mail with return receipt requested, or hand delivered and receipted, as follows:

If to the City: City of Chicago
Department of Planning and Development
Room 1000, City Hall
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Commissioner

If to the Developer: Chicago Oxford Associates, L.P.
c/o Kimpton Hotel & Restaurant Group, Inc.
222 Kearny Street
Suite 200
San Francisco, California 94108
Attention: President

With Copies to: Altheimer & Gray
10 South Wacker Drive, Suite 4000
Chicago, Illinois 60606
Attention: Maria N. Saldaña

Notices and submissions are deemed to have been received by the parties three (3) days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, submissions or other communications shall be sent.

5. Headings. The headings of the various Paragraphs of this Agreement have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending or affecting in any way the express terms and provisions hereof.

6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

7. Entire Agreement. This Agreement shall constitute the entire agreement of the parties regarding the subject matter hereof. This Agreement may not be modified or amended in any manner other than by written agreement executed by the parties.

8. Severability. If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word or the application thereof is held invalid, the remainder of this Agreement shall be construed as if such invalid part were never included and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

9. Waiver and Estoppel. Any delay by the City in instituting or prosecuting any actions or proceedings or otherwise asserting its rights and remedies shall not operate as a waiver of such rights or remedies or operate to deprive the City of or limit such rights in any way. No waiver by the City with respect to any specific default by Developer shall be construed, considered or treated as a waiver of the rights of the City with respect to any other defaults of Developer.

10. Cumulative Remedies. The City may exercise all remedies provided by law or in equity in the event of a default hereunder. All remedies shall be cumulative and the exercise of any one or more remedies shall not be construed as a waiver of any other remedies.

11. Disclaimer. No provision of this Agreement, nor any act of the City, shall be deemed or construed by Developer, or by any third persons, to create any relationship of third-party beneficiary, or of principal or agent, or of limited or general partnership, or of joint venture, or of any association or relationship involving the City.

12. Binding Effect This Agreement shall be binding on the parties hereto, their successors and assigns.

13. Term. The term hereof shall be for the Term of the Agreement (as defined in the Redevelopment Agreement). However, the term may be amended and extended by written agreement of the parties.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

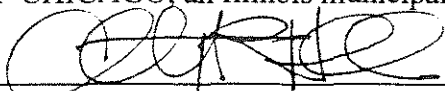
IN WITNESS WHEREOF, the parties hereto have executed or caused this Agreement to be executed, all as of the date first written above.

CHICAGO OXFORD ASSOCIATES, L.P., a California limited partnership

By: 225 Wabash Inc.
Its: General Partner

By: _____
J. Kirke Wrench
Its: Chief Financial Officer

CITY OF CHICAGO, an Illinois municipal corporation

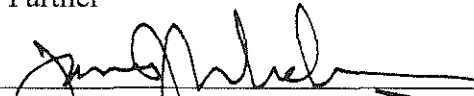
By: 

Christopher R. Hill
Commissioner of Department of
Planning and Development

IN WITNESS WHEREOF, the parties hereto have executed or caused this Agreement to be executed, all as of the date first written above.

CHICAGO OXFORD ASSOCIATES, L.P., a California limited partnership

By: 225 Wabash Inc.
Its: General Partner

By: 
~~J. Kirke Wrench~~ JAMES J. WABASH
Its: ~~Chief Financial Officer~~ Secretary

CITY OF CHICAGO, an Illinois municipal corporation

By: _____
Christopher R. Hill
Commissioner of Department of
Planning and Development

SCHEDULE I

PUBLIC BENEFITS PROGRAM

During the Term of the Agreement:

1. Developer will provide the Shedd Aquarium Society for its use, or any other organization of the Developer's choosing, with twenty-five (25) complimentary hotel room nights annually, for the Hotel Monaco-Chicago (the "Hotel"), subject to availability and advance notice;
2. Developer will provide the Shedd Aquarium Society, or any other organization of the Developer's choosing, with limited complimentary use of the Hotel's conference rooms, subject to availability and advance scheduling, in connection with the room nights described in 1. above;
3. Developer will provide the Shedd Aquarium Society, or any other organization of the Developer's choosing, with the opportunity to use the complimentary room nights described in 1. above for weekend stay packages at the Hotel for use in Shedd fund-raising events;
4. Developer will provide the following services for the Shedd Aquarium Society, or any other organization of the Developer's choosing:
 - a. Display of John G. Shedd Aquarium (the "Aquarium") brochures and pamphlets in common areas of the Hotel;
 - b. Sale at the concierge desk of the Hotel of VIP tickets for entrance to the Aquarium;
 - c. Brochures for the Aquarium placed in each room of the Hotel; and
5. Developer will also provide the Shedd Aquarium Society, or any other organization of the Developer's choosing, with the opportunity to collaborate on future promotions.

A handwritten signature in black ink, consisting of a large, stylized initial 'M' followed by a smaller, less distinct mark.

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8527/0162 27 001 Page 1 of 9
1999-10-22 11:59:08
Cook County Recorder 37.00



WAN\Oxford\subordin.agr.R@

7804105-D1 KML

This document prepared by and after recording return to:
William A. Nyberg, Esq.
Assistant Corporation Counsel
Department of Law
121 North LaSalle Street, Room 600
Chicago, IL 60602

**CHICAGO OXFORD ASSOCIATES, L.P.
REDEVELOPMENT AGREEMENT DATED AS OF OCTOBER 20, 1999**

SUBORDINATION AGREEMENT

This Subordination Agreement ("**Agreement**") is made and entered into as of the 20th day of October, 1999 between the City of Chicago, by and through its Department of Planning and Development (the "**City**"), and LaSalle Bank, N. A., a national banking association (the "**Lender**").

RECITALS:

WHEREAS, Chicago Oxford Associates, L.P., a California limited partnership, the "**Developer**", has entered into that certain lease dated as of December 31, 1996 (as heretofore amended, the "**Lease**") with American National Bank and Trust Company of Chicago, as Trustee under a Trust Agreement dated July 1, 1965 and known as Trust Number 21825, for an initial term ending March 31, 2032 for certain property and improvements located at 225 North Wabash Avenue, Chicago, Illinois 60602 and legally described in Exhibit A hereto (the "**Property**"), in order to redevelop the building (the "**Building**") and adjacent garage (the "**Garage**") located on the Property through the following activities: (i) renovation of the former Oxford House Hotel, including building facade improvements, resulting in the development of a first-class hotel to be known as the Hotel Monaco (the "**Hotel**") consisting or approximately 191

guest rooms, the creation of a new, high-quality sit-down restaurant, 5,000 square feet of meeting space, and the adjacent Garage with 88 parking spaces; and (ii) construction of certain public infrastructure improvements, including sidewalk vaults, and landscape improvements in the surrounding public way (the "**Public Improvements**") (the redevelopment of the Property, Building, Garage, and the related Public Improvements are collectively defined herein as the "**Project**"); and

WHEREAS, as part of obtaining financing for the Project, the Developer has entered into a certain Construction Loan Agreement dated as of January 30, 1998 with the Lender pursuant to which the Lender has agreed to make a loan to the Developer in an amount not to exceed \$14,500,000 (the "**Loan**"), which Loan is evidenced by a note and executed by the Developer in favor of the Lender (the "**Note**"), and the repayment of the Loan is secured by, among other things, certain liens and encumbrances on the Property and other property of the Borrower pursuant to the following: (i) Leasehold Mortgage dated January 30, 1998 and recorded February 18, 1998 as document number 98128487 made by the Developer to the Lender; and (ii) Security Interest of Lender dated February 20, 1998, and filed February 20, 1998 as document number 98 U 01933 (all such agreements referred to above and otherwise relating to the Loan are collectively defined herein as the "**Loan Documents**");

WHEREAS, the Developer desires to enter into a certain Redevelopment Agreement dated the date hereof with the City in order to obtain additional financing for the Project (the "**Redevelopment Agreement**," referred to herein along with various other agreements and documents related thereto as the "**City Agreements**");

WHEREAS, pursuant to the Redevelopment Agreement, the Developer will agree to be bound by certain covenants expressly running with the Property, as set forth in Sections 8.02 and 8.06 of the Redevelopment Agreement (the "**City Encumbrances**");

WHEREAS, pursuant to the Redevelopment Agreement, the Developer has executed a Junior Leasehold Mortgage, dated as of October 20, 1999, in favor of the City to secure certain obligations of the Developer to the City under the Redevelopment Agreement (the "**City Mortgage**");

WHEREAS, the City has agreed to enter into the Redevelopment Agreement with the Developer as of the date hereof, subject, among other things, to: (a) the execution by the Developer of the Redevelopment Agreement and the recording thereof as an encumbrance against the Property; and (b) the agreement by the Lender to subordinate its respective liens under the Loan Documents to the City Encumbrances;

NOW, THEREFORE, for good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Lender and the City agree as hereinafter set forth:

AGREEMENT:

1. (a) Subordination. All rights, interests and claims of the Lender in the Property pursuant to the Loan Documents are and shall be subject and subordinate to the City Encumbrances. In all other respects, the Redevelopment Agreement shall be subject and subordinate to the Loan Documents. Nothing herein, however, shall be deemed to limit the Lender's right to receive, and the Developer's ability to make, payments and prepayments of principal and interest on the Note, or to exercise its rights pursuant to the Loan Documents except as provided herein.

(b) Lender Succession. In the event that the Lender or any wholly-owned subsidiary shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of its remedies under the Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith succeeds to the interest of the Developer under the Redevelopment Agreement, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under the Redevelopment Agreement so long as such party accepts all of the obligations and liabilities of the "Developer" thereunder and shall certify in writing (in a form satisfactory to the City) its agreement to abide by all of the remaining executory terms of the Redevelopment Agreement, including but not limited to Section 8.25 thereof, for the Term of the Agreement (as defined in the Redevelopment Agreement); provided however, that if the Lender or any wholly-owned subsidiary of the Lender accepts an assignment of the Developer's interest under the Redevelopment Agreement, neither the Lender nor any such party shall have any liability under the Redevelopment Agreement for any "Event of Default" of the Developer thereunder which occurred prior to the time the Lender or such other party succeeded to the interest of the Developer under the Redevelopment Agreement. However, if the Lender or any such party does not expressly accept an assignment of the Developer's interest under the Redevelopment Agreement, the Lender or any such party shall be bound only by those provisions of the Redevelopment Agreement which are defined herein as the City Encumbrances.

2. Consent of Lender. Lender hereby consents to the Developer's execution of the City Mortgage, and the recording of the City Mortgage as a lien against the Property.

3. Notice of Default. The Lender shall use reasonable efforts to give to the City, and the City shall use reasonable efforts to give to the Lender: (a) copies of any notices of default which either entity may give to the Developer with respect to the Project pursuant to the Loan Documents or the City Agreements, respectively, and (b) copies of waivers, if any, of the

Developer's default in connection therewith. Under no circumstances shall the Developer or any third party be entitled to rely upon the agreement provided for herein.

4. Waivers. No waiver shall be deemed to be made by the City or the Lender of any of their respective rights hereunder, unless the same shall be in writing, and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the City or the Lender in any other respect at any other time.

5. Governing Law; Binding Effect. This Agreement shall be interpreted, and the rights and liabilities of the parties hereto determined, in accordance with the internal laws and decisions of the State of Illinois, without regard to its conflict of laws principles, and shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the Lender.

6. Section Titles; Plurals. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto. The singular form of any word used in this Agreement shall include the plural form.

7. Notices. Any notice required hereunder shall be in writing and addressed to the party to be notified as follows:

If to the City:

City of Chicago
Department of Planning and Development
Attention: Commissioner
121 North LaSalle Street, Room 1000
Chicago, Illinois 60602

With a copy to:

City of Chicago
Department of Law
Attention: Finance and Economic
Development Division
121 North LaSalle Street, Room 600
Chicago, Illinois 60602

If to the Lender:

LaSalle Bank, N.A.
135 South LaSalle Street
Chicago, Illinois 60603
Attention: Mr. David Patchin

With a copy to: Schwartz Cooper Greenberger & Krauss, Chtd.
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601
Attention: Martin Behn, Esq.

With a copy to: Chicago Oxford Associates, L.P.
c/o Kimpton Hotel & Restaurant Group, Inc.
Attn: President
222 Kearny Street
San Francisco, California 94108
415/397-5572 (Main Number)
415/296-8031 (Fax)

or to such other address as either party may designate for itself by notice. Notice shall be deemed to have been duly given: (i) if delivered personally or otherwise actually received; (ii) if sent by overnight delivery service; (iii) if mailed by first class United States mail, postage prepaid, registered or certified, with return receipt requested; or (iv) if sent by facsimile with facsimile confirmation of receipt (with duplicate notice sent by United States mail as provided above). Notice mailed as provided in clause (iii) above shall be effective upon the expiration of three (3) business days after its deposit in the United States mail. Notice given in any other manner described in this section shall be effective upon receipt by the addressee thereof; provided, however, that if any notice is tendered to an addressee and delivery thereof is refused by such addressee, such notice shall be effective upon such tender.

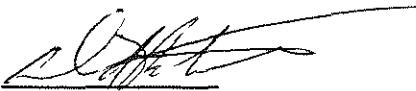
8. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one instrument.

[The remainder of this page is intentionally left blank. The next page is the signature page.]

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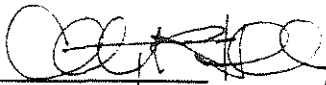
IN WITNESS WHEREOF, this Subordination Agreement has been signed as of the date first written above.

LASALLE BANK, N.A., a national banking association

By: 

Its: First Vice President

CITY OF CHICAGO

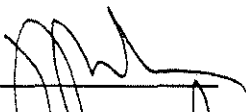
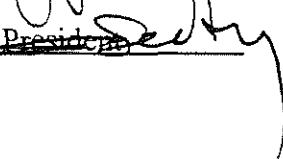
By: 

Its: Commissioner, JTX
Department of Planning and Development

ACKNOWLEDGED AND AGREED TO THIS
~~9~~ DAY OF Oct, 1999

CHICAGO OXFORD ASSOCIATES, L.P., a California Limited Partnership

By: 225 WABASH, INC., a California corporation, its general partner

By: 
Its: President 

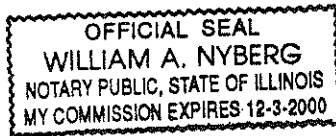
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY THAT Christopher R. Hill, personally known to me to be the Commissioner of the Department of Planning and Development of the City of Chicago, Illinois (the "City") and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Commissioner, he signed and delivered the said instrument pursuant to authority, as his free and voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20th day of October, 1999.

William A. Nyberg
Notary Public



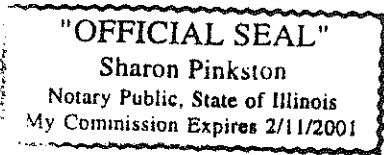
(SEAL)

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, SHARON PINKSTON, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY THAT DAVID PATCHIN, personally known to me to be the FIRST VP of LaSalle Bank, N.A., a national banking association ("LASALLE") personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered said instrument, pursuant to the authority given to him/her by LASALLE, as his/her free and voluntary act and as the free and voluntary act of LASALLE, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20th day of October, 1999.



Sharon Pinkston
Notary Public

My Commission Expires 2/11/2001

(SEAL)

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY LEASED

LOTS 1, 2, 3, 4, AND 5 IN BLOCK 7 IN FORT DEARBORN ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N. 17-10-303-001-000
 17-10-303-002-000
 17-10-303-003-000

Commonly known as 225 North Wabash Avenue, Chicago, Cook County, Illinois 60602

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