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60th & WESTERN REDEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF CHICAGO

AND

KMART CORPORATION



CC200257/NA28924 WMB 2/2

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



PROPERTY: VACANT LAND @ 60TH & WESTERN
ADDRESS: CHICAGO, IL

P.I.N. 20.18.300.031 AND 20.18.300.033
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Exhibit C	*TIF-Funded Improvements
Exhibit D	Redevelopment Plan
Exhibit E	Construction Contract
Exhibit F	[Omitted]
Exhibit G	*Permitted Liens
Exhibit H-1	*Project Budget
Exhibit H-2	*MBE/WBE Budget
Exhibit I	Approved Prior Expenditures
Exhibit J	Opinion of Developer's Counsel
Exhibit K	*Preliminary TIF Projection -- Real Estate Taxes
Exhibit L	*Form of City Note
Exhibit M	*Job Readiness Program

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

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City of Chicago Law Department
121 North LaSalle Street, Room 600
Chicago, IL 60602

60TH & WESTERN REDEVELOPMENT AGREEMENT

This 60th & Western Redevelopment Agreement (this "Agreement") is made as of this 24th day of September, 2001, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Kmart Corporation, a Michigan corporation (the "Developer").

RECITALS

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

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions and conservation area factors through the use of tax increment allocation financing for redevelopment projects.

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "the City Council") adopted the following ordinances on May 9, 1996: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the 60th & Western Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the 60th & Western Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the 60th & Western Redevelopment Project Area" (the "TIF Adoption Ordinance"). On October 7, 1998, the City Council adopted ordinances (4) approving an amendment to the redevelopment plan for the 60th & Western Redevelopment Project Area, (5) designating certain additional areas to be included within the 60th & Western Redevelopment Project Area, and (6) adopting tax increment allocation financing for the expanded 60th & Western Redevelopment Project Area (items(4)-(6) above collectively referred to herein as the "TIF Ordinances"). The redevelopment project area, as expanded, referred to above (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Project: The Developer has purchased (the "Acquisition") certain property located within the Redevelopment Area at approximately 60th Street and Western Avenue, Chicago, Illinois 60636 and legally described on Exhibit B hereto (the "Property"), and, within the time frames set forth in Section 3.01 hereof, shall (i) commence and complete construction of an 135,000 square foot or larger SuperK retail store (the "Facility") thereon, along with parking spaces for 535 cars, and (ii) complete or cause to be completed certain traffic signal improvement at Western Avenue, south of 60th Street. The Facility and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on Exhibit C) are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago 60th & Western Redevelopment Project Area Tax Increment Allocation Finance Program Redevelopment Plan and Project, as amended to date (the "Redevelopment Plan") attached hereto as Exhibit D.

F. City Financing: The City agrees to use, in the amounts set forth in Section 4.03 hereof, (i) the proceeds of the City Note (defined below) and/or (ii) Incremental Taxes (as defined below), to reimburse the Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement and the City Note.

In addition, the City may, in its discretion, issue tax increment allocation bonds ("TIF Bonds") secured by Incremental Taxes pursuant to a TIF bond ordinance (the "TIF Bond Ordinance") at a later date, the proceeds of which (the "TIF Bond Proceeds") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes (including any such payment made pursuant to any City Note provided to the Developer pursuant to this Agreement), to make payments of principal and interest on the City Note, or in order to reimburse the City for the costs of TIF-Funded Improvements.

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

SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this Agreement by reference.

SECTION 2. DEFINITIONS

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

"60th and Western TIF Fund" shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

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

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

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

"Available Incremental Taxes" shall mean an amount equal to eighty percent (80%) of the Incremental Taxes deposited in the 60th & Western Redevelopment Project Area TIF Fund attributable to the taxes levied on the Property after the Closing Date.

"Bond(s)" shall have the meaning set forth for such term in Section 8.05 hereof.

"Bond Ordinance" shall mean the City ordinance authorizing the issuance of Bonds.

"Certificate" shall mean the Certificate of Completion of Construction described in Section 7.01 hereof.

"Certificate of Expenditure" shall mean any Certificate of Expenditure referenced in the City Note pursuant to which the principal amount of the City Note will be established.

"Change Order" shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in Section 3.03, Section 3.04 and Section 3.05, respectively.

"City Council" shall have the meaning set forth in the Recitals hereof.

"City Funds" shall mean the funds paid to the Developer pursuant to the City Note.

"City Note" shall mean the Tax Increment Allocation Revenue Note (Kmart Corporation Redevelopment Project), Taxable Series A, to be in the form attached hereto as Exhibit L, in the maximum principal amount of \$3,700,000, issued by the City to the Developer as provided herein. The City Note shall be issued as provided herein and shall bear interest at the Prime Rate, to be determined at issuance, but in no event shall the interest rate exceed 9.5% per annum or be less than 8.5% per annum. The City Note shall provide for accrued, but unpaid, interest to bear interest at the same annual rate.

"Closing Date" shall mean the date of execution and delivery of this Agreement by all parties hereto, which shall be deemed to be the date appearing in the first paragraph of this Agreement.

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

"Corporation Counsel" shall mean the City's Office of Corporation Counsel.

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

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "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.

"Equity" shall mean funds of the Developer (other than funds derived from Lender Financing) irrevocably available for the Project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.05 (Cost Overruns).

"Event of Default" shall have the meaning set forth in Section 15 hereof.

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

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

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

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

"Incremental Taxes" shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the 60th & Western TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

"Lender Financing", if any, shall mean 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.

"MBE(s)" shall mean 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" shall mean the budget attached hereto as Exhibit H-2, as described in Section 10.03.

"Municipal Code" shall mean the Municipal Code of the City of Chicago.

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

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

"Plans and Specifications" shall mean final construction documents containing a site plan and working drawings and specifications for the Project, as submitted to the City as the basis for obtaining building permits for the Project, which will also include landscaping plans and other project elements such as architectural design, materials and finishes, lighting, signage, landscape materials and screening of mechanical equipment.

"Prime Rate" shall mean the prime rate, as listed in The Wall Street Journal as of the Closing Date or the date of issuance of the City Note, as the Developer may select.

"Prior Expenditure(s)" shall have the meaning set forth in Section 4.04(a) hereof.

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

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

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

"Redevelopment Area" shall have the meaning set forth in the Recitals hereof.

"Redevelopment Plan" shall have the meaning set forth in the Recitals hereof.

"Redevelopment Project Costs" shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

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

"Survey" shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM urban survey of the Property dated within 45 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City or lender(s) providing Lender Financing).

"Term of the Agreement" shall mean the period of time commencing on the Closing Date and ending on the date on which the Redevelopment Area is no longer in effect (through and including May 9, 2019), which date may, at the sole option of the City, be extended to December 31, 2020.

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

"TIF Bonds" shall have the meaning set forth in the Recitals hereof.

"TIF Bond Ordinance" shall have the meaning set forth in the Recitals hereof.

"TIF-Funded Improvements" shall mean 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 the City Funds, subject to the terms of this Agreement. Exhibit C lists the TIF-Funded Improvements for the Project.

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

"Title Company" shall mean First American Title Insurance Company.

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

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

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

SECTION 3. THE PROJECT

3.01 The Project. With respect to the Facility, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17 hereof: (i) commence construction no later than 180 days after Closing Date, and (ii) complete construction and conduct business operations therein no later than April 30, 2003.

3.02 Scope Drawings and Plans and Specifications. The Developer has delivered the Scope Drawings and Plans and Specifications to DPD and DPD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DPD as a Change Order pursuant to Section 3.04 hereof. The Scope Drawings and 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 Building Department, 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 in an amount not less than Twenty-One Million Seven Hundred Thirty Thousand Dollars (\$21,730,000). The Developer hereby certifies to the City

that (a) it has Equity in an amount 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. Except as provided below, all 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; provided, that any Change Order relating to any of the following must be submitted by the Developer to DPD for DPD's prior written approval: (a) a reduction in the square footage of the Facility below 135,000 square feet; (b) a change in the use of the Property; or (c) a delay in the completion of the Project. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval (to the extent required in this section). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. Change Orders costing more than Twenty-Five Thousand Dollars (\$25,000.00) each, to an aggregate amount of One Hundred Thousand Dollars (\$100,000.00), 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 in the quarterly progress reports.

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

3.06 Other Approvals. Any DPD 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 shall not commence construction of the Project until the Developer has obtained all necessary permits and approvals (including but not limited to DPD's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

3.07 Progress Reports and Survey Updates. The Developer shall provide DPD with written quarterly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section 3.04). The Developer shall provide three (3) copies of an updated Survey to DPD upon the request of DPD or any lender providing Lender Financing, reflecting improvements made to the Property.

3.08 Inspecting Agent or Architect. An independent agent or architect (other than the Developer's architect) approved by DPD shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DPD.

3.09 Barricades. Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. DPD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

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

SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be \$21,730,000, to be applied in the manner set forth in the Project Budget. Such costs shall be funded solely from Equity and/or Lender Financing.

4.02 Developer Funds. Equity and/or Lender Financing shall be used to pay all 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 may only be used to reimburse the Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may

be reimbursed from City Funds for each line item therein (subject to Sections 4.03(b) and 4.04(b)), 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. City Funds shall not be paid to the Developer hereunder prior to the issuance of a Certificate, but interest on the outstanding principal balance may accrue after issuance.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to issue the City Note to the Developer on or as of the date that the Developer has commenced work on the foundation of the Facility. The principal amount of the City Note shall be in an amount equal to the costs of the TIF-Funded Improvements which have been incurred by the Developer and are to be reimbursed by the City through payments of principal and interest on the City Note, subject to the provisions hereof, with the amount of such costs being established through the City's execution and delivery of a Certificate of Expenditure; provided, however, that the maximum principal amount of the City Note shall be an amount not to exceed the lesser of \$3,700,000 or seventeen percent (17.03%) of the actual total Project costs (the "Applicable Percentage"), even though the initial principal amount of the City Note may exceed the Applicable Percentage of the Project costs incurred by the Developer as of the issuance date; and provided, however, that payments under the City Note are subject to the amount of Available Incremental Taxes deposited into the 60th & Western being sufficient for such payments. If, at the time a Certificate is issued, the principal amount of the City Note (as determined by the aggregate amount of Certificates of Expenditure executed and delivered by the City) exceeds the maximum principal amount of the City Note set forth above based on the Applicable Percentage, the principal amount of the City Note shall be reduced by the amount of such difference so that the principal amount of the City Note will equal the amount calculated with respect to the Applicable Percentage, and the interest accrued under the City Note will be adjusted as if this reduced principal amount were the maximum amount of principal ever outstanding under the City Note. The City may, in its sole discretion, use Incremental Taxes (other than Available Incremental Taxes) to make payments on the City Note.

4.04 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 Expenditures"). 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 of the date hereof 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) 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, without the prior written consent of DPD, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of DPD.

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

4.06 Preconditions of Execution of Certificate of Expenditure. Prior to each execution of a Certificate of Expenditure by the City, the Developer shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by the Developer to DPD of any request for execution by the City of a Certificate of Expenditure 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 execution of a Certificate of Expenditure, that:

(a) the total amount of the request for Certificate of Expenditure represents the actual cost of the Acquisition;

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

(c) 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; and

(d) 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.

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 execution of a Certificate of Expenditure by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Developer. In addition, the Developer shall have satisfied all other preconditions of execution of a Certificate of Expenditure, including but not limited to requirements set forth in the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances and/or this Agreement.

SECTION 5. CONDITIONS PRECEDENT

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

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

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

5.03 Other Governmental Approvals. The Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DPD. If the Developer has commenced construction of the Project prior to the Closing Date, the Developer has met with DPD to review design concerns and proposed architectural solutions, and has received conceptual design approval from DPD.

5.04 Financing. The Developer has furnished proof reasonably acceptable to the City that the Developer has Equity and Lender Financing in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Developer has 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 set forth in Section 4.01) to complete the Project. Any liens against the Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein 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, with the Office of the Recorder of Deeds of Cook County.

5.05 Acquisition and Title. On the Closing Date, the Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Developer as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on Exhibit G hereto and evidences the recording of this Agreement pursuant to the provisions of Section 8.18 hereof. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. The Developer has provided to DPD, on or prior to the Closing Date, documentation related to the purchase of the Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DPD's satisfaction, by the Title Policy and any endorsements thereto.

5.06 Evidence of Clean Title. The Developer, at its own expense, has provided the City with searches under the Developer's corporate 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 Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

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

5.08 Insurance. The Developer, at its own expense, has insured the Property in accordance with Section 12 hereof, and has delivered certificates required pursuant to Section 12 hereof evidencing the required coverages to DPD.

5.09 Opinion of the Developer's Counsel. On the Closing Date, the Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as Exhibit J, with such changes as required by or acceptable to Corporation Counsel. If 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 may be given by the Developer's general corporate counsel.

5.10 Evidence of Prior Expenditures. The Developer has provided evidence satisfactory to DPD in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.04(a) hereof.

5.11 Financial Statements. The Developer has provided Financial Statements to DPD for its most recent fiscal year, and audited or unaudited interim financial statements.

5.12 Documentation. The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to its employment levels, as of a recent date, at its other Super K store in the City.

5.13 Environmental. The Developer has provided DPD with copies of that certain phase I environmental audit completed with respect to the Property. The Developer has provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

5.14 Corporate Documents; Economic Disclosure Statement. The Developer has provided a copy of its Articles or Certificate of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and the State of Illinois; a secretary's certificate in such form and

substance as the Corporation Counsel may require; by-laws of the corporation; and such other corporate documentation as the City has requested. The Developer has provided to the City an Economic Disclosure Statement, in the City's then current form, dated as of the Closing Date.

5.15 Litigation. The Developer has provided to Corporation Counsel and DPD, a description of all pending or threatened material litigation or administrative proceedings involving the Developer, as disclosed in the Financial Statements or in periodic or otherwise required filings with the Securities Exchange Commission.

SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. (a) Except as set forth in Section 6.01(b) below, prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project, the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with, the City of Chicago, and shall submit all bids received to DPD for its inspection and written approval. (i) For the TIF-Funded Improvements, the Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner. If the Developer selects a General Contractor (or the General Contractor selects 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 paid out of City Funds. (ii) For Project work other than the TIF-Funded Improvements, if the Developer selects a General Contractor (or the General Contractor selects 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 Project 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 shall be provided to DPD within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

(b) If, prior to entering into an agreement with a 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 not exceed 10% of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of Section 6.01(a) shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

6.02 Construction Contract. Prior to the execution thereof, the Developer shall deliver to DPD a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with Section 6.01 above, for DPD's prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. Within ten (10) business days after execution of such contract by the Developer, the General Contractor and any other parties thereto, 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 Performance and Payment Bonds. Prior to the commencement of any portion of the Project which includes work on the public way, the Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in a form acceptable to the City. The City shall be named as obligee or co-obligee on any such bonds.

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

6.05 Other Provisions. In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement) (for contracts with a General Contractor only), Section 10.03 (MBE/WBE Requirements, as applicable), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof. If the Developer commences construction of the Project after the Closing Date, the Developer shall, prior to commencement, meet with DPD to review design concerns and proposed architectural solutions and receive conceptual design approval from DPD.

SECTION 7. COMPLETION OF CONSTRUCTION

7.01 Certificate of Completion of Construction. Upon completion of the construction 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 in recordable form 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.

7.02 Effect of Issuance of Certificate; Continuing Obligations. The Certificate relates only to the construction 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.

Those covenants specifically described at Sections 8.02, 8.06, 8.19 and 12(c) as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate; provided, that upon the issuance of a Certificate, the covenants set forth in Section 8.02 shall be deemed to have been fulfilled. 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 18.15 of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

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

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

(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.

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 a written notice in recordable form stating that the Term of the Agreement has expired.

SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER.

8.01 General. 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 Michigan corporation duly organized, validly existing, qualified to do business in its state of incorporation/organization and in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) 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 corporate action, and does not and will not violate its Articles of Incorporation or by-laws 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 is now or may become bound;

(d) prior to the issuance of a Certificate, the Developer shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget) and non-governmental charges that the Developer is contesting in good faith pursuant to Section 8.15 hereof. After the issuance of a Certificate, the Developer may sell all or a portion of the Property or the Facility, or may lease all or any portion of the Property or Facility, without the prior written consent of the City; provided, however, that the Developer or any transferee or lessee may have the right to receive payments under the City Note after any such transfer or lease only if the City provides its written consent thereto.

(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 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 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, if such action would materially adversely affect the Developer's ability to perform its obligations hereunder: (1) be a party to any merger, liquidation or consolidation; (2) subject to subsection (d) above, sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (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, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget; and

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

8.02 Covenant to Redevelop. Upon DPD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and 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 Bond Ordinance, the TIF Bond Ordinance, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer, including BPD #614. The covenants set forth in this Section shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate with respect thereto.

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 discretion) any bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements (the "Bonds"); provided, however, that any such amendments shall not have a material 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) Not less than 209 full-time equivalent, permanent jobs shall be created by the Developer upon the completion of the Project, of which 90 shall be full-time jobs. All 209 full-time equivalent, permanent jobs shall be retained or created by the Developer at the Facility through the tenth anniversary of the issuance of a Certificate. For purposes of this Section 8.06, a full-time equivalent job is any one or more positions or people totaling 2,000 hours per year, and a full-time job shall be one job filled by one person working 2,000 hours per year or drawing an annual salary.

(b) The Developer hereby covenants and agrees to occupy the Facility for the Term of the Agreement, with such occupancy comprising not less than fifty percent (50%) of the total actual square footage of the Project.

(c) Prior to any payment under the City Note, the Developer shall deliver a certificate to the City evidencing its compliance with the requirements of this Section 8.06 for the most recent calendar year.

(d) In the event that the Developer fails to meet its obligations to create and retain jobs, or to maintain a minimum occupancy level, as set forth above, for any full calendar year, the Developer will have the next calendar year to cure such failure. During the period that the Developer has so failed to meet its obligations, and for the one year cure period, the Developer will continue to receive the Available Incremental Taxes collected during that time (though levied previously). After the expiration of the cure period with no cure, the Developer will be entitled to no further payment on the City Note until the Developer can cure any such failure, and interest on the City Note shall not accrue; however, after the end of the second full calendar year after the expiration of a cure period, the City may, in its sole discretion, terminate the City Note and this Agreement. In addition, the City may, in its sole discretion, terminate the City Note and this Agreement immediately upon the occurrence of a second failure (following a first failure and successful cure) by the Developer to create and retain jobs or maintain occupancy as set forth above, and Developer shall have no cure period..

(e) The covenants set forth in this Section shall run with the land and be binding upon any transferee.

8.07 Employment Opportunity; Progress Reports. 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 10 hereof. The Developer shall deliver to the City written monthly progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. 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.

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, statements of its employment profile upon DPD's request.

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

8.10 Arms-Length Transactions. Unless DPD has given its prior written consent with respect thereto, no Affiliate of 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 Conflict of Interest. Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or 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.

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 aspect of the Project.

8.13 Financial Statements. The Developer shall obtain and provide to DPD Financial Statements for the Developer's fiscal year ended January 31, 2001 and each fiscal year thereafter for the Term of the Agreement.

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

8.15 Non-Governmental Charges. (a) Payment of Non-Governmental Charges. Except for the Permitted Liens, 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 has the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend 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 shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the date hereof in the conveyance and real property records of the county in which the Project is located. This Agreement shall be recorded prior to any mortgage made in connection with Lender Financing, or a subordination agreement (as described in Section 5.04 hereof) will have to be prepared and executed. 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 or may create a lien upon the Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, the Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. The Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. The Developer's right to challenge real estate taxes applicable to the Property is limited as provided for in Section 8.19(c) below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. 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,

(A) 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

(B) 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.

(c) Real Estate Taxes.

(i) Acknowledgment of Real Estate Taxes. The Developer agrees that (A) for the purpose of this Agreement, the minimum assessed value of the Property ("Minimum Assessed Value") is shown on Exhibit K attached hereto and incorporated herein by reference for the years noted on Exhibit K; (B) Exhibit K sets forth the specific improvements which will generate the fair market values, assessments, equalized assessed values and taxes shown thereon; and (C) the real estate taxes anticipated to be generated and derived from the respective portions of the Property and the Project for the years shown are fairly and accurately indicated in Exhibit K.

(ii) Real Estate Tax Exemption. With respect to the Property or the Project, neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, seek, or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970)) for any year that the Redevelopment Plan is in effect.

(iii) No Reduction in Real Estate Taxes. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value as shown in Exhibit K for the applicable year.

(iv) No Objections. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer, shall object to or in any way seek to interfere with, on procedural or any other grounds, the filing of any Underassessment Complaint or subsequent proceedings related thereto with the Cook County Assessor or with the Cook County Board of Appeals, by either the City or any taxpayer. The term "Underassessment Complaint" as used in this Agreement shall mean any complaint seeking to increase the assessed value of the Property up to (but not above) the Minimum Assessed Value as shown in Exhibit K.

(v) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.19(c) are covenants running with the land and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants shall be released when the Redevelopment Area is no longer in effect. The Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Property or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.19(c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this Section 8.19(c).

8.20 Job Readiness Program. The Developer shall undertake a job readiness program, as described in Exhibit M hereto, to work with the City, through the Mayor's Office of Workforce Development, to participate in job training programs to provide job applicants for the jobs created by the Project and the operation of the Developer's business on the Property.

8.21 Use of Facility. The Developer may change the use of the Facility to any use permitted by applicable zoning laws; provided, however, that if the City does not provide written consent to any change in use from that of a SuperK retail store, the City may, in its sole discretion, terminate the City Note.

8.22 Survival of Covenants. All warranties, representations, covenants and agreements of the Developer contained in this Section 8 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 Section 7 hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

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

9.02 Survival of Covenants. All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01 Employment Opportunity. 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, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

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

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

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

10.02 City Resident Construction Worker Employment Requirement. 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 Chief Procurement Officer of the City.

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

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 Chief Procurement Officer, the Commissioner of DPD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. 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 Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that 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 hard construction costs) (as the same shall be evidenced by 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 Chief Procurement

Officer'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.

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 the Project:

(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 (as these budgeted amounts may be reduced to reflect decreased actual costs) 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 has 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 Section 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 execution of the Construction Contract, 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, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by 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.

SECTION 11. 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 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 Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Property or (B) any other real property in which 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.

SECTION 12. INSURANCE

The Developer shall provide and maintain, or cause to be provided, at the Developer's own expense, during the Term of the Agreement (or as otherwise specified below), the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement and Throughout the Term of the 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 of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(b) Construction

(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 of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability 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 of Chicago is to be named as an additional insured on a primary, non-contributory bases.

(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 has 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) 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 Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago 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 on the 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 has limits sufficient to pay for the re-creations and reconstruction of such records.

(viii) Contractor's Pollution Liability

When any 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 of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(c) Term of the Agreement

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Property. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.

(d) Other Requirements

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 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.

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.

Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer.

The Developer agrees that insurers shall waive rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

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.

The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the City of Chicago shall not contribute with insurance provided by the Developer under the Agreement.

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.

The Developer shall require the General Contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the General Contractor, or subcontractors. All General Contractors and subcontractors shall be subject to the same requirements (Section (d)) of Developer unless otherwise specified herein.

If the Developer, General Contractor or any subcontractor desires additional coverages, the Developer, General Contractor and any subcontractor shall be responsible for the acquisition and cost of such additional protection.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as any such change does not increase these requirements.

(e) Self-Insurance.

To the extent permitted by law, Developer may self-insure for its own insurance requirements specified above (but not for the insurance coverages required of the General Contractor or any subcontractor) and expressly agrees that, to the extent it does so self-insure, it shall bear all risk of loss for any loss which would otherwise be covered by insurance policies, and the self-insurance program shall comply with at least the insurance requirements set forth above. Such self-insurance shall be evidenced in a letter or other signed document from Developer to the City setting forth the information required under Section 5.08 hereof.

SECTION 13. INDEMNIFICATION

13.01 General Indemnity. Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnitees") harmless from and against, any and all liabilities,

obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnites in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnites in any manner relating 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 information statement 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 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 the applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnites or any of them. The provisions of the undertakings and indemnification set out in this Section 13.01 shall survive the termination of this Agreement.

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

14.01 Books and Records. The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to 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 has access to all portions of the Project and the Property during normal business hours for the Term of the Agreement.

SECTION 15. DEFAULT AND REMEDIES

15.01 Events of Default. The occurrence of any one or more of the following events, subject to the provisions of Section 15.03, shall constitute an "Event of Default" by 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 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 material respect;

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

(e) the commencement of any proceedings in bankruptcy by or against 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;

(f) the appointment of a receiver or trustee for the Developer, for any substantial part of the Developer's assets or the institution of any proceedings for the dissolution, or the full or partial

liquidation, of the Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(g) the entry of any judgment or order against the Developer which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) the occurrence of an event of default under the Lender Financing, if applicable, which default is not cured within any applicable cure period;

(i) the dissolution of the Developer; or

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

For purposes of Sections 15.01(j) hereof, a person with a material interest in the Developer shall be one owning in excess of ten (10%) of the Developer's issued and outstanding shares of stock.

15.02 Remedies. Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein.

15.03 Curative Period. In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the 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; and provided,

further , that there shall be no cure period under this Section 15.03 with respect to the Developer's failure to comply with the job creation or occupancy requirements of Section 8.06 hereof.

SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit G hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a "Permitted Mortgage." It is hereby agreed by and between the City and 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 New Mortgage (other than 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 18.15 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, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to 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 18.15 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 has 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, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) overnight courier, or (c) registered or certified mail, return receipt requested.

If to the City:	City of Chicago Department of Planning and Development 121 North LaSalle Street, Room 1000 Chicago, IL 60602 Attention: Commissioner
With Copies To:	City of Chicago Department of Law Finance and Economic Development Division 121 North LaSalle Street, Room 600 Chicago, IL 60602
If to the Developer:	Kmart Corporation 3100 West Big Beaver Road Troy, MI 48084 Attention: Vice President of Real Estate
With Copies To:	Alzheimer & Gray 10 South Wacker Drive Chicago, Illinois 60606-7482 Attention: Rick Wendy, Esq.

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to clause (a) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (b) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (c) shall be deemed received two (2) business days following deposit in the mail.

SECTION 18. MISCELLANEOUS

18.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement Exhibit D hereto without the consent of any party hereto.

18.02 Entire Agreement. This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

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

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

18.05 Waiver. Waiver by the City or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

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

18.07 Disclaimer. Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

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

18.09 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

18.10 Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall

be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

18.11 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances and/or the Bond Ordinance, if any, 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 of Illinois, 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 Approval. Wherever this Agreement provides for the approval or consent of the City, DPD or the Commissioner, or any matter is to be to the City's, DPD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or DPD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

18.15 Assignment. The Developer may not sell, assign or otherwise transfer its interest in this Agreement (including the City Note) in whole or in part without the written consent of the City. Any successor in interest to the Developer under this Agreement (including a purchaser of all or a portion of the Property or Facility under Section 8.01(d) hereof) shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Sections 8.19 (Real Estate Provisions) and 8.21 (Survival of Covenants) hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

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

18.17 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 of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration,

tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

18.18 Exhibits. All of the exhibits attached hereto are incorporated herein by reference.

18.19 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if the Developer is required to provide notice under the WARN Act, the Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where the Developer has locations in the State. Failure by the Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

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

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

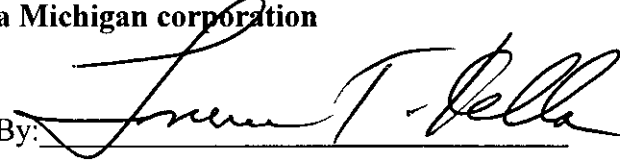
18.22 Business Relationships. The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with

whom an elected official has a Business Relationship, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. 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 hereby.

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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.

KMART CORPORATION,
a Michigan corporation

By: 

Its: LORRENCE T. KELLAR
V.P. REAL ESTATE

CITY OF CHICAGO

By: _____
Commissioner,
Department of Planning and Development

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.

**KMART CORPORATION,
a Michigan corporation**

By: _____

Its: _____

CITY OF CHICAGO

By: Alicia Amberly
Commissioner, Et
Department of Planning and Development

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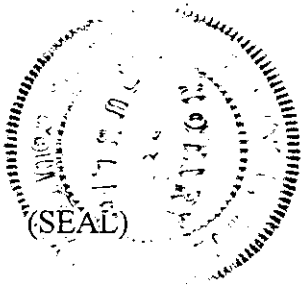
STATE OF)
) SS
COUNTY OF)

I, TAMMY L. HALL, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that LORRENCE T. KELLAR, personally known to me to be the VICE PRESIDENT of Kmart Corporation, a Michigan corporation (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of the Developer, as his/her free and voluntary act and as the free and voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 20 day of SEPTEMBER, 2001.

Tammy L. Hall
Notary Public

My Commission Expires 5/9/2004



STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

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I, Dora Tsatsos, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Alicia M. Berg, 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/she signed, sealed, and delivered said instrument pursuant to the authority given to him/her by the City, as his/her free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 24 th day of September 2001.

Dora Tsatsos
Notary Public



My Commission Expires 2/23/02

REDEVELOPMENT AREAExhibit A (to Redevelopment Agreement)

line of South Western Avenue 207.91 feet to a point 283 feet south of the north line of said southwest quarter, thence east along a line 283 feet south of and parallel to said north line of the southwest quarter 852.54 feet to a point 127 feet west of the west line of the right-of-way of the Baltimore and Ohio Chicago Terminal Railroad Company; thence south easterly along the arc of a circle convex to the northeast and having a radius of 279 feet, 241.86 feet to a point 483 feet south of said north line of the southeast quarter and 5 feet west of said west line of the right-of-way of said railroad; thence east along a line 483 feet south of and parallel to said north line of the southwest quarter, 5 feet to said west line of the right-of-way of said railroad; thence south along the aforesaid right-of-way of Baltimore and Ohio Chicago Terminal Railroad 214.49 feet to a point 697.49 feet south of the north line of the southwest quarter; thence west along a line 697.49 feet south of and parallel to the north line of the southwest quarter, 17 feet to a point which is 17 feet west of the right-of-way of the Baltimore and Ohio Chicago Terminal Railroad; thence northwesterly along the arc of a circle convex to the northeast and having a radius of 279 feet a distance of 232 feet more or less to a point 770.74 feet east to the east line of South Western Avenue and 490.91 feet south of the north line of the southwest quarter; thence west a long line 490.91 feet south of and parallel to said north line of the southwest quarter of 870.74 feet to the place of beginning, in Cook County Illinois (containing 4.2 acres of land, more or less).

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3. The new Redevelopment Project Area boundary resulting from Amendment Number 1 to the 60th and Western Redevelopment Project Area Redevelopment Plan and Project is described as follows:

A tract of land comprised of parts of the southwest quarter of Section 7, the northwest and southwest quarters of Section 18, and the northwest quarter of Section 19, all in Township 38 North, Range 14 East of the Third Principal Meridian, together with a part if the southeast quarter of Section 13, Township 38 North, Range 13 East of the Third Principal Meridian, said tract of land being more particularly described as follows:

beginning at the intersection of the south line of West 63rd Street as said south line is located in the northwest quarter of said Section 19 with the southward projection of the east line of South Hamilton Avenue as said east line is located in said Section 18; thence west along said south line (crossing South Hamilton Avenue, vacated South Leavitt Street, South Bell Avenue and South Oakley Avenue) to an intersection with the southward projection of the west line of South Oakley Avenue, as said west line is located in the southwest quarter of Section 18, Township 38 North, Range

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14, East of the Third Principal Meridian; thence north along said southward extension and along said west line and the northward extension thereof, passing into the said southwest quarter of Section 18, crossing West 62nd Street to the southeast corner of Lot 117 in Leighton's Subdivision of Lots 3 and 4 of Block 5 (except the south 125 feet thereof) and all of Block 4 in the subdivision of the south half of the said southwest quarter; thence north along the west line of vacated South Oakley Avenue (heretofore vacated by Document Number 27282709) to the northeast corner of Lot 108 in said Leighton's Subdivision; thence west along the north line of said Lot 108 and the westward extension thereof, to an intersection with the centerline of the alley (heretofore vacated by Document Number 27282709) lying west of and adjacent to said lot; thence north along said centerline to an intersection with a line drawn 80 feet south of and parallel with the north line of vacated West 61st Street in said Leighton's Subdivision; thence west along said parallel line to an intersection with a curved line, convex to the southwest, having a radius of 80 feet; thence northwesterly along said curved line to an intersection with a line 250 feet east from and parallel with the east line of South Western Avenue; thence north along said parallel line, to an intersection with a line 282.74 feet north of and parallel with said centerline of vacated West 61st Street; thence west along the last described parallel line and along the westward projection thereof, passing into the southeast quarter of Section 13, Township 38 North, Range 13 East of the Third Principal Meridian, to an intersection with the west line of South Western Avenue in said southeast quarter; thence north along said west line of South Western Avenue to an intersection with westward projection of a line drawn 283 feet south of and parallel with the north line of the aforementioned southwest quarter of Section 18; thence east along said westward projection and along said parallel line, passing into the southwest quarter of Section 18, 852.54 feet to an intersection with a curved line, convex to the northeast, having a radius of 279 feet; thence southeasterly along said curved line to a point on a line 483 feet south of and parallel with the north line of the aforesaid southwest quarter, which point is 5 feet west of the west line of the right-of-way of the Baltimore and Ohio Chicago Terminal Railroad Company; thence east on said parallel line to an intersection with said west line; thence north along said west line to an intersection with the south line of West 59th Street (said intersection being also the northeast corner of vacated Block 1); thence north, crossing said West 59th Street, to the southeast corner of Lot 28 in Mary Hopkinson's Subdivision of part of Blocks 5, 6 and 7 in Tremont Ridge, a subdivision of the southwest quarter of the northwest quarter of Section 18 aforesaid; thence north along the west line of a 16 foot wide alley (partially vacated) in said Block 7 of Tremont Ridge and along said west line projected north across West 58th Street, and along the west line of the vacated 16 foot wide alley in Block 2 of Tremont Ridge, to an intersection with the south line of

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the north 165 feet of the southwest quarter of the northwest quarter of Section 18; thence west along said south line of the north 165 feet, a distance of 18.90 feet to an intersection with the west line of the east 424.37 feet of said southwest quarter of the northwest quarter of Section 18; thence north along said west line of the east 424.37 feet to an intersection with the eastward projection of a line drawn parallel with, and 1.00 foot north from, the south line of Lot 10 in the subdivision of Lots 21 and 22 in Block 1 and Lots 35 and 36 in Block 3 in the subdivision of the northwest quarter of the northwest quarter of Section 18, said parallel line being the south line of a 16 foot wide alley dedicated by instrument recorded August 8, 1955, as Document Number 85-150838; thence west along said parallel line, a distance of 16 feet to an intersection with the west line of a 16 foot wide public alley; thence north along said west line and said west line projected north, to an intersection with the north line of West 56th Street; thence east along an eastward projection of said north line of West 56th Street a distance of 96 feet; thence north, parallel with the east line of the northwest quarter of the northwest quarter of Section 18 a distance of 135 feet; thence northeasterly on a straight line to a point on the south line of West Garfield Boulevard which is 264.37 feet west from said east line of the northwest quarter of the northwest quarter, as measured along said south line; thence north, parallel with said east line and the northward projection thereof, passing into the southwest quarter of Section 7, Township 38 North, Range 14 East of the Third Principal Meridian, to an intersection with the north line of West Garfield Boulevard; thence east along said north line to an intersection with the northward projection of the west line of the east 1,127.8 feet of the northeast quarter of the northwest quarter of Section 18; thence south along said west line of the east 1,127.8 feet of the northeast quarter of the northwest quarter of Section 18 to an intersection with the south line of the north 1,694.8 feet of the east half of the northwest quarter of Section 18, Township 38 North, Range 14 East of the Third Principal Meridian; thence east along said south line of the north 1,694.8 feet, a distance of 3.49 feet; thence southeastwardly on a straight line to a point on the south line of the north 1,986.8 feet of said Section 18, 319.17 feet east of the west line of the southeast quarter of the northwest quarter of said Section 18; thence east along the south line of the north 1,986.8 feet of said Section 18; to an intersection with the northward projection of the west line of the vacated alley west of and adjoining Block 13 in Dewey's Subdivision of the south 1,819.8 feet of the north 1,986.8 feet of the east 1,127.8 feet and south 290 feet of the north 2,276.8 feet of the east 837.3 feet and the north 290 feet of the south 323 feet of the east 987.3 feet of the east half of the northwest quarter of Section 18; thence south on said northward projection of the west line of the vacated alley to an intersection with the westward projection of the south line of West 58th Street; thence east along said

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westward projection to the northwest corner of Lot 1 in Block 13 in Dewey's Subdivision aforesaid; thence south along the west line of said Block 13 to the southwest corner thereof; thence east along the south line of said block, and the eastward projection thereof, to an intersection with east line of South Hoyne Avenue; thence south along said east line (crossing the vacated 18 foot wide alley lying north of West 59th Street), to the north line of said West 59th Street; thence east on the north line of West 59th Street to a point which is 157.77 feet east from the intersection of a northward projection of the centerline of South Hoyne Avenue in E. A. Cummings' Subdivision of part of the south half of the southwest quarter of Section 18 with said north line of West 59th Street; thence south to a point on the centerline of West 61st Street (partially vacated), which point is 157.69 feet east from the intersection of said centerline with the northward projection of the aforementioned centerline of South Hoyne Avenue; thence west along said centerline to an intersection with the northward projection of the east line of South Hoyne Avenue; thence south along said northward projection, and along said east line and east line projected south (crossing the south half of West 61st Street, the vacated 16 foot wide alley lying south of West 61st Street, vacated West 61st Place, the vacated 16 foot alley lying south of West 61st Street, vacated West 62nd Street, 62nd Street, and the 16 foot wide alley lying north of West 62nd Street, 62nd Street, and the 16 foot wide alley lying north of West 63rd Street) to an intersection with the eastward projection of the north line of Lots 43 thru 52, inclusive, in E. A. Cummings subdivision Blocks 2 and 7, Blocks 3 and 6, except the east 340 feet thereof, and Lots 1 and 2, Block 5, all in the south half of the southwest quarter of Section 18 aforesaid; thence west along said eastward projection, and along the north line of said lots to a point on the aforesaid east line of South Hamilton Avenue; thence south along said east line and the southward projection thereof, to the point of beginning containing 150.6 acres of land, or less.

Appendix "B".

(To Amendment Number 1 To Redevelopment Plan And
Project For 60th And Western Redevelopment
Project Area)

*60th And Western Redevelopment Project Area
Amended Area Eligibility Report.*

The purpose of this analysis is to determine whether a portion of the City of

EXHIBIT B

~~FIRST AMERICAN TITLE INSURANCE COMPANY~~
ALTA OWNER'S POLICY
SCHEDULE A

10902500

File No.: CC200257
Policy No.: OP

AMOUNT OF INSURANCE

DATE OF POLICY

\$3,950,000.00

DATE OF RECORDING

NAME OF INSURED:

KMART CORPORATION, A MICHIGAN CORPORATION

1. The estate or interest in the land described herein and which is covered by this policy is:

FEE SIMPLE, AS TO PARCEL 1, EASEMENTS AS TO PARCELS 2 AND 3

2. Title to the estate or interest in the land is vested in:

KMART CORPORATION, A MICHIGAN CORPORATION

- ~~3. The land referred to in this policy is described as follows:~~

PARCEL 1:

LOT 2 IN TONY, MIKE, CHRISTINA AND JIM'S RESUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 19, 1997 AS DOCUMENT 97113722 AND CERTIFICATE OF CORRECTION RECORDED FEBRUARY 21, 1997 AS DOCUMENT 97121930, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENTS FOR THE BENEFIT OF PARCEL 1 AS SET FORTH AND DEFINED IN DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS RECORDED SEPTEMBER 24, 1996 AS DOCUMENT 96729764 AS FOLLOWS:

PROPERTY ADDRESS: VACANT LAND
LOT 1, WESTERN
CHICAGO, IL

- A) PERPETUAL, NON-EXCLUSIVE EASEMENT OVER THE "ROADWAY" FOR PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS TO AN FROM THE LAND AND SOUTH WESTERN AVENUE.
- B) PERPETUAL, EXCLUSIVE EASEMENT OVER THE "PYLON PARCEL" FOR THE PURPOSE OF CONSTRUCTION, INSTALLATION, MAINTENANCE, REPAIR AND USE OF A PYLON SIGN ("PYLON SIGN") AND A PERPETUAL, NON-EXCLUSIVE EASEMENT OVER SUCH PARTS OF LOT 2 AS MAY BE NECESSARY TO CONSTRUCT, INSTALL, MAINTAIN, REPAIR OR USE THE PYLON SIGN.
- C) PERPETUAL, NON-EXCLUSIVE EASEMENT UNDER THE "UTILITY PARCEL" FOR THE PURPOSE OF INSTALLATION, MAINTENANCE, REPAIR AND USE OF UNDERGROUND UTILITIES OR THE INCREASE OF SUCH UTILITIES.
- D) PERPETUAL, NON-EXCLUSIVE EASEMENT UNDER AND THROUGH THE "UTILITY PARCEL" FOR THE PURPOSE OF CONNECTING INTO UTILITIES.

PARCEL 3:

EASEMENTS FOR THE BENEFIT OF PARCEL 1 AS SET FORTH AND DEFINED IN OPERATION AND EASEMENT AGREEMENT RECORDED DECEMBER 21, 1994 AS DOCUMENT 27381234 AS FOLLOWS:

- A) EASEMENT OVER 58 FOOT OVERALL DRIVEWAY FOR ACCESS, INGRESS AND EGRESS FOR VEHICLES.
- B) EASEMENT OVER 14 FOOT 6 INCH AMERICAN PRIVATE LANE FOR PARKING OF VEHICLES AND TRAVEL BY VEHICLES.
- C) EASEMENT OVER 29 FOOT COMMON DRIVEWAY AREA FOR TRAFFIC (WITHOUT STOPPING OR PARKING OF VEHICLES); PROVIDED THE NORTH 14 FEET 6 INCHES OF THE COMMON DRIVEWAY AREA MAY BE USED TO LOAD AND UNLOAD, BUT ONLY FOR SHORT PERIODS OF TIME.
- D) EASEMENT OVER 14 FOOT 6 INCH JEWEL-OSCO PRIVATE LANE (TO THE EXTENT NOT BEING USED BY JEWEL FOR PARKING OF VEHICLES) FOR VEHICULAR TRAFFIC.
- E) EASEMENT OVER NORTH-SOUTH DRIVEWAY FOR VEHICULAR TRAFFIC.
- F) EASEMENT OVER 61ST STREET EASEMENT AREA:
1. TO USE FOR GENERAL PURPOSES FOR ALL (i) WATER PIPES, SEWERS, CONDUITS AND RELATED INSTALLATIONS AND (ii) OTHER INSTALLATIONS LOCATED IN THE 61ST STREET EASEMENT AREA, TOGETHER WITH ANY REPLACEMENTS, ENLARGEMENTS AND RELOCATIONS THEREOF (THE "INSTALLATIONS")
 2. TO CAUSE ALL OF THE INSTALLATIONS TO BE MAINTAINED, REPAIRED, RENEWED AND REPLACED, FROM TIME TO TIME.
 3. TO CAUSE ANY OF THE INSTALLATIONS TO BE INSTALLED, ENLARGED OR REARRANGED, FROM TIME TO TIME, IF NECESSARY OR CONVENIENT.

EXHIBIT C

TIF-FUNDED IMPROVEMENTS

10902500

<u>Line Item</u>	<u>Cost</u>
Acquisition	\$3,950,000
TOTAL	\$3,950,000**

****Notwithstanding the total of TIF-Funded Improvements, the assistance to be provided by the City is limited as set forth in the Agreement.**

EXHIBIT G

10902500

PERMITTED LIENS

1. Liens or encumbrances against the Property:

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

2. Liens or encumbrances against the Developer or the Project, other than liens against the Property, if any: ~~[To be completed by Developer's counsel, subject to City approval.]~~

None
ELK

PROJECT BUDGET

K-Mart Redevelopment
60 th and Western TIF District
Sources and Uses of Funds

Exhibit H-1
(to Redevelopment Agreement)

09-Jan-01

USES:

Total Land Costs		3,850,000
Building Construction and Fixturing		
Construction Costs		
By Component:		
Concrete	1,270,000	
Masonry	1,836,000	
Metals	770,000	
Thermal/Moisture	500,000	
Equipment	90,000	
Finishes	1,013,000	
Mechanical	1,400,000	
Electrical	1,236,000	
Insurance	82,000	
Builder Overhead/General Conditions	725,000	8,721,000
Fixtures/Equipment		4,187,000
Sub Total		12,908,000
Site Development Costs		
Site Preparation/Improvements		2,003,000
Traffic Signal		150,000
Landscape		100,000
Environmental		270,000
Sub Total		2,523,000
Other Development Costs		
Capital Interest		959,000
Capital Overhead		128,000
Legal		300,000
Design		510,000
Other		45,000
Contingency		409,000
Sub Total		2,349,000
	TOTAL USES	21,730,000

SOURCES:

Private Equity Funds - Note: K Mart will initially fund entire Project costs of 21,730,000. The TIF Developer Note is structured as "pay as you go" obligation, payable from incremental property taxes annually)	18,030,000
TIF Developer Note (principal amount) - "Pay as you go" Structure Note: the Developer Note is the present value of annual incremental tax payments	3,700,000
TOTAL SOURCES	21,730,000

Exhibit H-2
(to Redevelopment Agent.)

MBE/WBE BUDGET
Kmart Redevelopment
60th and Western TIF District
April 25, 2001

10902500

Building Construction Costs

By Component:	Concrete	1,270,000
	Masonry	1,636,000
	Metals	770,000
	Thermal/Moisture	500,000
	Equipment	90,000
	Finishes	1,013,000
	Mechanical	1,400,000
	Electrical	1,235,000
	Insurance	82,000
	Building Overhead/General Conditions	<u>725,000</u>

Subtotal **8,721,000**

Site Development Costs

	Site Preparation/Improvements	2,003,000
	Traffic Signal	150,000 ¹
	Landscape	100,000
	Environmental	<u>270,000</u>

Subtotal **2,523,000**

Other Development Costs

	Legal	300,000
	Design	510,000
	Other	45,000 ²
	Contingency	<u>409,000³</u>

Subtotal **1,264,000**

TOTAL 12,508,000

¹ Included, but only if Kmart uses a private contractor (rather than City forces) to erect the signal.

² Included, but only to the extent actually expended in connection with M/WBE costs.

³ Included, but only to the extent actually expended in connection with M/WBE costs.

'60TH AND WESTERN TIF

K MART PROJECT (60TH AND WESTERN TIF)

EXHIBIT K

10902500

YEAR	MINIMUM ASSESSED VALUE	ESTIMATED MULTIPLIER	MINIMUM EQUALIZED ASS. VALUE	BASE EAV	TAX RATE	TAXES PAID	INCREMENTAL TAXES REC'D.
2001	\$327,084	2.2235	\$727,272	\$727,272	7.788%	\$56,640	\$0
2002	\$327,084	2.2235	\$727,272	\$727,272	7.788%	\$56,640	\$0
2003	\$2,478,555	2.2235	\$5,511,068	\$727,272	7.788%	\$429,202	\$0
2004	\$3,387,728	2.2235	\$7,532,614	\$727,272	7.788%	\$586,640	\$372,562
2005	\$3,387,728	2.2235	\$7,532,614	\$727,272	7.788%	\$586,640	\$530,000
2006	\$3,575,064	2.2235	\$7,949,155	\$727,272	7.788%	\$619,080	\$530,000
2007	\$3,575,064	2.2235	\$7,949,155	\$727,272	7.788%	\$619,080	\$562,440
2008	\$3,575,064	2.2235	\$7,949,155	\$727,272	7.788%	\$619,080	\$562,440
2009	\$3,773,866	2.2235	\$8,391,192	\$727,272	7.788%	\$653,506	\$562,440
2010	\$3,773,866	2.2235	\$8,391,192	\$727,272	7.788%	\$653,506	\$596,866
2011	\$3,773,866	2.2235	\$8,391,192	\$727,272	7.788%	\$653,506	\$596,866
2012	\$3,984,837	2.2235	\$8,860,285	\$727,272	7.788%	\$690,039	\$596,866
2013	\$3,984,837	2.2235	\$8,860,285	\$727,272	7.788%	\$690,039	\$633,399
2014	\$3,984,837	2.2235	\$8,860,285	\$727,272	7.788%	\$690,039	\$633,399
2015	\$4,208,721	2.2235	\$9,358,091	\$727,272	7.788%	\$728,808	\$633,399
2016	\$4,208,721	2.2235	\$9,358,091	\$727,272	7.788%	\$728,808	\$672,168
2017	\$4,208,721	2.2235	\$9,358,091	\$727,272	7.788%	\$728,808	\$672,168
2018	\$4,446,308	2.2235	\$9,886,366	\$727,272	7.788%	\$769,950	\$672,168
2019	\$4,446,308	2.2235	\$9,886,366	\$727,272	7.788%	\$769,950	\$713,310
2020	\$4,446,308	2.2235	\$9,886,366	\$727,272	7.788%	\$769,950	\$713,310
2021	\$4,213,144	2.2235	\$9,367,926	\$727,272	7.788%	\$729,574	\$713,310

NPV@9.5%= TOTAL \$3,700,000

EXHIBIT L

UNITED STATES OF AMERICA
STATE OF ILLINOIS
COUNTY OF COOK
CITY OF CHICAGO

10902500

TAX INCREMENT ALLOCATION REVENUE NOTE (KMART CORPORATION
REDEVELOPMENT PROJECT), TAXABLE SERIES A

SOLE NOTE:

REGISTERED
NO. R-1

MAXIMUM
AMOUNT:

\$3,700,000

FORM

Registered Owner: KMART CORPORATION

Interest Rate:

Maturity Date:

Dated Date:

[Prime Rate as of Closing
Date or issuance date, but
not less than 8.5% or more
than 9.5% per annum]

[20 years from issuance date]

[at commencement of
foundation work]

KNOW ALL PERSONS BY THESE PRESENTS, that the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before the Maturity Date identified above, but solely from the sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner to pay costs of the Project (as hereafter defined) in accordance with the ordinance hereinafter referred to up to the principal amount of \$3,700,000 and to pay the Registered Owner interest on that amount at the Interest Rate per year specified above from the date of the advance. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. Accrued but unpaid

interest on this Note shall also accrue interest at the Interest Rate. The principal amount of this Note will be set from time to time by the City through the City's issuance of Certificates of Expenditure (in the format attached to this Note) from time to time.

Principal of and interest on this Note from the Available Incremental Taxes (as defined in the Redevelopment Agreement) is due February 1 of each year following the City issuance of a Certificate of Completion pursuant to the Redevelopment Agreement (as defined herein) until the earlier of Maturity or until this Note is paid in full. Payments shall first be applied to interest. The principal of and interest on this Note are payable in lawful money of the United States of America, and shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Comptroller of the City, as registrar and paying agent (the "Registrar"), at the close of business on the fifteenth day of the month immediately prior to the applicable payment, maturity or redemption date, and shall be paid by check or draft of the Registrar, payable in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, that the final installment of principal and accrued but unpaid interest will be payable solely upon presentation of this Note at the principal office of the Registrar in Chicago, Illinois or as otherwise directed by the City. The Registered Owner of this Note shall note on the Payment Record attached hereto the amount and the date of any payment of the principal of this Note promptly upon receipt of such payment.

This Note is issued by the City in the principal amount of advances made from time to time by the Registered Owner up to \$3,700,000 for the purpose of paying the costs of certain eligible redevelopment project costs incurred by Developer in connection with the Project, as

defined in the Redevelopment Agreement dated as of _____, 2001 between the City and the Registered Owner (the "Redevelopment Agreement"), in the Redevelopment Project Area (the "Project Area") in the City, all in accordance with the Constitution and the laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 et seq.) (the "TIF Act"), the Local Government Debt Reform Act (30 ILCS 350/1 et seq.) and an Ordinance adopted by the City Council of the City on _____ (the "Ordinance"), in all respects as by law required.

The City has assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the TIF Act and the Ordinance, in order to pay the principal and interest of this Note. Reference is hereby made to the aforesaid Ordinance and the Redevelopment Agreement for a description, among other things, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to this Note and the terms and conditions under which this Note is issued and secured. **THIS NOTE IS A SPECIAL LIMITED OBLIGATION OF THE CITY, AND IS PAYABLE SOLELY FROM DEVELOPER ACCOUNT, AND SHALL BE A VALID CLAIM OF THE REGISTERED OWNER HEREOF ONLY AGAINST SAID SOURCES. THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE AN INDEBTEDNESS OR A LOAN AGAINST THE GENERAL TAXING POWERS OR CREDIT OF THE CITY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION. THE REGISTERED OWNER OF THIS NOTE SHALL NOT HAVE THE RIGHT TO COMPEL ANY EXERCISE OF THE TAXING POWER OF THE CITY, THE STATE**

OF ILLINOIS OR ANY POLITICAL SUBDIVISION THEREOF TO PAY THE PRINCIPAL OR INTEREST OF THIS NOTE. The principal of this Note is subject to redemption on any date, as a whole or in part, at a redemption price of 100% of the outstanding principal amount thereof being redeemed. There shall be no prepayment penalty. Notice of any such redemption shall be sent by registered or certified mail not less than five (5) days nor more than sixty (60) days prior to the date fixed for redemption to the registered owner of this Note at the address shown on the registration books of the City maintained by the Registrar or at such other address as is furnished in writing by such Registered Owner to the Registrar.

This Note is issued in fully registered form in the denomination of its outstanding principal amount. This Note may not be exchanged for a like aggregate principal amount of notes or other denominations.

This Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar in Chicago, Illinois, but only in the manner and subject to the limitations provided in the Ordinance, and upon surrender and cancellation of this Note. Upon such transfer, a new Note of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange therefor. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

This Note hereby authorized shall be executed and delivered as the Ordinance and the Redevelopment Agreement provide.

Pursuant to the Redevelopment Agreement, the Developer has agreed to complete the Project and to advance funds related to the Project on behalf of the City. The cost of such completion in the amount of \$3,700,000 shall be deemed to be a disbursement of the proceeds of this Note.

Pursuant to Sections 8.06 and 15.02 of the Redevelopment Agreement, the City has reserved the right to terminate payments of principal and of interest on this Note upon the occurrence of certain conditions. The City shall not be obligated to make payments under this Note if an Event of Default (as defined in the Redevelopment Agreement) or condition or event that with notice or the passage of time or both would constitute an Event of Default has occurred. Such rights shall survive any transfer of this Note. The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

It is hereby certified and recited that all conditions, acts and things required by law to exist, to happen, or to be done or performed precedent to and in the issuance of this Note did exist, have happened, have been done and have been performed in regular and due form and time as required by law; that the issuance of this Note, together with all other obligations of the City, does not exceed or violate any constitutional or statutory limitation applicable to the City.

This Note shall not be valid or become obligatory for any purpose until the certificate of

authentication hereon shall have been signed by the Registrar.

10902500

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City of Chicago, Cook County, Illinois, by its City Council, has caused its official seal to be imprinted by facsimile hereon or hereunto affixed, and has caused this Note to be signed by the duly authorized signature of the Mayor and attested by the duly authorized signature of the City Clerk of the City, all as of _____, ____.

Mayor

City Clerk

(SEAL)
Attest:

CERTIFICATE OF AUTHENTICATION

Registrar and Paying Agent:

Comptroller of the City of Chicago, Cook County, Illinois

This Note is described in the within mentioned Ordinance and is the Tax Increment Allocation Revenue Note (KMART CORPORATION Redevelopment Project), Taxable Series A, of the City of Chicago, Cook County, Illinois.

Comptroller

10902500

PRINCIPAL PAYMENT RECORD

DATE OF PAYMENT

PRINCIPAL PAYMENT

PRINCIPAL BALANCE DUE

10902500

(ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto the within Note and does hereby irrevocably constitute and appoint attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the Note in every particular, without alteration or enlargement or any change whatever.

Registered Owner
Signature:

KMART CORPORATION

NOTICE: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

Guaranteed:

Consented to by:

CITY OF CHICAGO
DEPARTMENT OF PLANNING AND DEVELOPMENT

BY: _____

ITS: _____

10902500

RECEIVED

SEP 21 2001

ARW

EXHIBIT M

**MEMORANDUM OF UNDERSTANDING REGARDING
JOB READINESS AND TRAINING ("MOU")**

THIS MOU reflects the understanding between Kmart Corporation ("Kmart") and the Mayor's Office for Workforce Development ("MOWD") regarding job readiness and job training services (the "Services") in connection with the redevelopment of the property at 60th and Western Avenue (the "Property") with Kmart's proposed SuperK store (the "Project").

WHEREAS, Kmart has applied for Tax Increment Financing ("TIF") for the proposed Project; and

WHEREAS, the Department of Planning and Development ("DPD") has required Kmart to retain MOWD to provide certain job readiness and job training services as a condition to receiving TIF funds; and

WHEREAS, Kmart and MOWD (collectively the "Parties") have entered into a TIF Redevelopment Agreement, and this document is Exhibit M to said Redevelopment Agreement; and

NOW, THEREFORE, in consideration of the mutual promises made by each Party in this MOU and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Kmart and MOWD agree as follows:

1. Contractor.

MOWD intends to provide the Services through one or more of its contractors. MOWD will consult with Kmart in MOWD's initial selection of a contractor.

If MOWD deems it prudent to change contractors, it has sole authority to do so. MOWD will inform Kmart of any such change and the reasons therefor. Any change in contractor will not affect compensation as provided for in Section 7.

2. Services.

MOWD will, by and through the contractor it selects, undertake the following Services for the benefit of Kmart:

a. Marketing and Recruitment

MOWD will market Kmart employment opportunities to Chicago residents, both within and outside of the 15th Ward. Such marketing may include, for example, advertisements, job fairs, and community notices.

b. Screening and Referral

- (1) MOWD will screen interested applicants based on hiring criteria described in Section 3 ("Hiring Criteria"). MOWD will refer to Kmart only applicants it reasonably deems meet the Hiring Criteria. At a minimum, MOWD will refer 500 applicants to Kmart.
- (2) MOWD will begin referring said applicants 8 weeks prior to the scheduled date for the store opening (the "Opening Date"), and will complete the referrals 6 weeks prior to the Opening Date, to allow Kmart time to process applications and hire and train new employees.
- (3) MOWD will keep a log of all persons referred to Kmart. The log will include name, address and telephone number of the persons referred. MOWD will make the log available to Kmart upon request.

c. Follow-up Services

- (1) MOWD will ensure a reasonable opportunity for the following services to be made available to each applicant referred to and hired by Kmart:
 - (a) Child care services.
 - (b) Transportation services.
 - (c) Enrollment of employees' children in the Kidcare health insurance program.
- (2) MOWD will ensure that each applicant referred to and hired by Kmart receives necessary and appropriate information about the Earned Income Tax Credit Program and assistance in applying for the Program.
- (3) MOWD will help Kmart maximize use of available tax credits under the Work Opportunity Tax Credit and the Welfare to Work Tax Credit programs, which may result in tax savings to Kmart of between \$2,400 and \$8,500 for each eligible employee.

3. Hiring Criteria.

a. Hiring Criteria for applicants includes:

- (1) **Minimum age: 16.**

- (2) **Drug-free.** MOWD will inform applicants of this criterion and will refer to Kmart only those applicants who self-attest that they meet this criterion. MOWD will work with Kmart to develop the language to be used in the attestation.
 - (3) **Minimum reading level: 8th grade.** MOWD will administer the Test of Adult Basic Education to applicants and will refer to Kmart only those applicants who pass this test for the 8th grade reading level.
- b. Kmart may change Hiring Criteria with the written agreement of MOWD, which shall not be unreasonably withheld.

4. Recruiting Timeframe and Consideration of Referrals.

- a. Kmart will advise MOWD of the time frames for recruiting activities for applicants referred by MOWD and for applicants not referred by MOWD. Kmart will promptly advise MOWD of any changes to these time frames.
- b. Kmart will notify MOWD of the Opening Date at least 16 weeks before the Opening Date, and keep MOWD apprised of any changes to the date. MOWD will then direct the contractor to begin performing the Services.
- c. Kmart agrees to allow all applicants referred by MOWD to complete job application forms. Kmart agrees to review the application forms and interview applicants meeting the Hiring Criteria before interviewing applicants not referred by MOWD, as long as MOWD refers applicants within the time frame established by Kmart.
- d. Kmart retains full discretion regarding recruiting and hiring. Kmart has no obligation to hire any applicants referred by MOWD. No provision of this MOU restricts Kmart in any way from taking any and all steps it deems prudent to recruit and hire employees.

5 Performance.

- a. Kmart and MOWD will cooperate with each other to establish the logistic arrangements necessary to carry out the Services.
- b. MOWD will monitor the quality and timeliness of all Services provided by the contractor and will be responsible for the quality and timeliness of the contractor's performance.
- c. If Kmart for any reason believes that the Services provided are not in accordance with this MOU, Kmart will discuss its concerns with MOWD, and MOWD agrees to take any and all actions reasonably necessary to address Kmart's concerns.

- d. If, after providing MOWD 30 days to take such actions, Kmart reasonably believes that the services are not or will not be provided in accordance with this MOU, Kmart may terminate this MOU as provided in Section 9.

6. **Term.**

- a. The term of MOWD's retention and engagement under this MOU (the "Term") will begin on the effective date of the Redevelopment Agreement.
- b. The Term will end one year after the first person referred by MOWD commences employment at the store (the "Scheduled Termination Date"), unless terminated prior to that date as hereinafter provided in Section 9
- c. If the Services have not been fully performed by the Scheduled Termination Date, the Term may be extended by mutual agreement of the Parties.

7. **Compensation.** In consideration of the Services to be performed by MOWD described by Section 2, Kmart agrees to pay MOWD \$140,000. Kmart will make the payment 16 weeks before the Opening Date.

8. **Expenses.** MOWD will be responsible for all expenses that it or the contractor may incur in performance of any duties under this MOU.

9. **Termination of MOU.**

- a. Kmart may terminate this MOU upon written notice to MOWD after providing MOWD 30 days to take corrective actions as provided in Section 5.
- b. MOWD may terminate this MOU at any time upon written notice to Kmart, if Kmart has failed to timely pay any material amount owed by Kmart to MOWD hereunder when due, and Kmart has failed to correct such payment default within 30 days after receipt of written notice of such payment default.
- c. This MOU also may be terminated by written mutual agreement by the Parties.

10. **Remedy if Terminated.** If this MOU is terminated then:

- a. MOWD's fees under Section 7 will be prorated through the date of termination;
- b. MOWD will reimburse Kmart for Services not yet performed as of the date of termination;
- c. The reimbursement amount will be determined by mutual agreement of the Parties in accordance with subsections (a) and (b) of this Section 10; and
- d. Any termination will not be considered a breach of the TIF Redevelopment Agreement.

11. **Non-Disclosure/Confidential Information.**

- a. MOWD acknowledges that, during the term of this MOU, MOWD and the contractor may have access to confidential information (as defined below) of Kmart. Accordingly, MOWD agrees that, except as required by law, it will not at any time, without the express prior written consent of Kmart:
- (1) disclose, directly or indirectly, any confidential information to anyone;
 - (2) use, directly or indirectly, any confidential information for the benefit of anyone other than Kmart.
- b. MOWD agrees to require the contractor to comply with the provisions of this Section 11.
- c. As used in this MOU, "confidential information" means all information of a business nature that was or is disclosed to, learned or compiled by MOWD or any contractor in the course of MOWD's engagement under this MOU, which information relates to the business of Kmart, the business of any customer, supplier or licensee of Kmart, or the business of any other person, firm, or corporation which consults with or is in any way affiliated with Kmart. The term "confidential information" does not include information so generally known or available that it is part of the public domain.
- d. The obligations of MOWD under this Section 11 will survive the term of this MOU and will terminate with respect to any confidential information only when it ceases to be confidential as defined in Section 11(c) above.

12. **Compliance with Laws.** In the course of performing the Services, MOWD will require that the contractor comply with all applicable laws.

13. **Payments and Notices.**

- a. Kmart will send payment to:

Attention: Joel Simon
 Mayor's Office for Workforce Development
 1615 W. Chicago Avenue
 Chicago, IL 60622

- b. Any notice provided for in this MOU must be in writing and must be delivered to the recipient by one of the methods described below in this Section at the following address:

If to Kmart:

Attention: Sonya J. Hene
 Kmart Corporation
 551 North Hicks Road

10902500

Palatine, IL 60067
Facsimile: 847-202-3295

with a copy to:

Attention: Rick Wendy
Alzheimer & Gray
10 S. Wacker Drive
Chicago, IL 60606
Facsimile: 312-715-4800

If to MOWD:

Attention: Joël Simon
Mayor's Office for Workforce Development
1615 W. Chicago Avenue
Chicago, IL 60622
Facsimile: 312-746-7773

with a copy to:

Attention: Corporation Counsel
City of Chicago
Department of Law
City Hall, Room 600
121 N. LaSalle
Chicago, IL 60602
Facsimile: (312) 744-8538

or to such other persons or at such other addresses as may be designated by written notice served in accordance with the provisions hereof. Notices will be deemed given: (i) upon receipt, in the case of notice given personally or by a reputable courier service; (ii) on the first business day following receipt, in the case of notice given by facsimile (provided that a confirmation copy of the facsimile is placed in the U.S. mail, postage prepaid, within two business days after facsimile transmission); and (iii) three business days after mailing, in the case of U.S. registered or certified mail, postage prepaid, with return receipt requested. For purposes hereof, invoices are not deemed to be notices.

14. **Entire Understanding.** This MOU constitutes the entire understanding between the Parties with respect to job readiness and job training.
15. **Miscellaneous.**
 - a. The terms of this MOU will be governed and construed according to the laws of the State of Illinois without regard to Illinois' principles regarding choice of law.

- b. If any part or parts of this MOU are invalid or unenforceable for any reason, the remaining parts will nevertheless be valid and enforceable.
- c. Any party's failure to enforce any of the provisions of this MOU will not be construed to be a waiver of such provision or of the right of that party to enforce that provision at any time thereafter. No waiver of any breach of this MOU will be effective unless it is in writing.
- d. This MOU is not intended to create any benefit for any contractor selected by MOWD.

KMART CORPORATION

By:

Lorrence T. Kellar

Lorrence T. Kellar
Vice President

10902500

Date: September 19, 2001

MAYOR'S OFFICE FOR WORKFORCE DEVELOPMENT

By:

Sean Herder
[name]
Director of Workforce Solutions
[title]

Date: September 21, 2001