

98616613

. DEPT-01 RECORDING \$359.00
. T30009 TRAN 3187 07/16/98 11:14:00
. #5145 ; CG # - 72 - 616613
. COOK COUNTY RECORDER

**BLOCK 58, CENTRAL LOOP PROJECT
REDEVELOPMENT AGREEMENT
RELIANCE BUILDING**

76 947776 D. J. H. K.

170

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

Mark Lenz
Assistant Corporation Counsel
City of Chicago
Department of Law
30 North LaSalle Street - Room 1610
Chicago, Illinois 60602

98616613

BOX 333-CTI

00000000

00000000

00000000 00000000
00000000 00000000
00000000 00000000

Increment Redevelopment Plan and Project ("North Loop TIF Plan") , an ordinance establishing the North Loop Tax Increment Redevelopment Project Area ("North Loop Project Area") and an ordinance authorizing tax increment allocation financing for the North Loop Project Area ("TIF Adoption Ordinance") were each approved by the City Council on June 20, 1984. The North Loop TIF Plan, as previously amended in September, 1987, was amended and supplemented by, and incorporated into, that certain Central Loop Tax Increment Financing Redevelopment Project and Plan ("Central Loop TIF Plan") by ordinance of the City Council adopted on February 7, 1997. Also by ordinances of the City Council adopted on February 7, 1997, there was established the "Central Loop Project Area" resulting from expanding the North Loop Project Area by including an Added Area, and there was approved and adopted tax increment financing for the Added Area within the Central Loop Project Area. The Redevelopment Plan and the North Loop TIF Plan, as amended by Part B of (and otherwise supplemented by) the Central Loop TIF Plan (sometimes herein called the "TIF Plan"), are collectively referred to as the "Redevelopment Documents".

D. The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (1996), as amended from time to time ("TIF Act"), to finance projects that eradicate blighted conditions through the use of tax increment allocation financing for redevelopment projects.

98616613

obtaining the cooperation of any City agency with regard to the relocation, repair or replacement of existing utility lines. Under no circumstances shall the City be financially responsible for the relocation, repair or replacement of any utility lines as a result of the Agreement.

4.9 Commencement and Completion of the Project. Developer shall commence with the construction of the Project within thirty (30) days from the issuance of the first building permit affecting the Project, the application for which Developer shall timely submit and diligently pursue. Except as otherwise provided in the Agreement, Developer shall complete the Project (as evidenced by the issuance of the Inspector's Certificate regarding the substantial completion of the Project and the subsequent completion of any "punch list" items), subject to such Permitted Delays as are described in subsection 5.2 below, within fifteen (15) months from the commencement date. Developer agrees for itself, its successors and assigns, that Developer, its successors and assigns, shall promptly begin and diligently complete the Project within the time periods specified in this subsection 4.9.

4.10 Barricades; Security for the Building. Prior to the commencement of any construction activity requiring barricades, 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. The City shall have the right to approve the

98616613

1952-1953

maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

Prior to closing and conveyance of the Building and the Property to Developer, Developer shall submit evidence satisfactory to the City of a security plan to be in effect during the construction of the Project, to prevent damage or theft from occurring to the Building or its contents. At closing, Developer shall deliver to the City an executed contract with a security service affecting the Building to be in effect as of the closing date. The City shall be immediately notified of any cancellation of the security contract, and be advised of Developer's efforts to obtain an alternative security service contract.

4.11 Signs and Public Relations. Developer shall erect a sign of size and style approved by the DPD in a conspicuous location at the Building during the construction of the Project, indicating that financing for the Project 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 Developer, the Project and the Building in the City's promotional literature and communications.

4.12 Certificate of Completion. As the construction of the Project is completed in accordance with the approved Working Drawings and Specifications, the Agreement, the Redevelopment Documents and, if applicable, the Landmarks Ordinance and the Preservation Easement (as evidenced by the issuance of the Final Inspector's Certificate, as described above), the City, upon

98616613

1101001

written request by Developer, shall furnish Developer with an appropriate Certificate. The Certificate shall be a conclusive determination of satisfaction and termination of the covenants in the Agreement with respect to the obligations of Developer and its successors and assigns to complete the Project. The Certificate, however, shall not constitute evidence that Developer has complied with any applicable provisions of federal, state and local laws, ordinances and regulations with regard to the completion of the Project, nor shall it serve as any "guaranty" of the structural soundness or quality of the construction of the Project, nor shall it serve to release Developer, or its successors and assigns, from its obligations contained in the Preservation Easement or as described in Section VII of the Agreement.

The Certificate shall be in recordable form. Upon written request by Developer for the Certificate, the City, within twenty (20) days after receipt of the same, shall undertake an inspection of the Building and the Property accompanied by a representative of Developer and thereafter provide Developer either with the Certificate or a written statement indicating in adequate detail how Developer has failed to complete the Project in conformity with the Redevelopment Documents, the Agreement, the Working Drawings and Specifications, and the Preservation Easement, or is otherwise in default, and what measures or acts will be necessary, in the reasonable opinion of the City, for Developer to perform in order to obtain the Certificate. Developer shall promptly, but in all events within sixty (60) days, correct any such nonconformity or

98616613

1972-1973

default. Upon compliance with the City's requirements, Developer shall resubmit a written request for a Certificate from the City.

4.13 Insurance.

Developer shall provide and maintain at Developer's own expense, or cause its General Contractor and Subcontractors to provide and maintain, during the Term of the Agreement, the insurance coverages and requirements specified below, insuring all operations related to the construction of the Project and the terms and provisions of the Agreement.

Insurance To Be Provided.

(a) **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 the Agreement and Employers Liability coverage with limits of not less than \$500,000 for each accident or illness.

(b) **Commercial General Liability Insurance (Primary and Umbrella).** Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence, combined single limit, 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, its employees, elected officials, agents,

98616613

and representatives are to be named as additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

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

(d) All Risk Builders Risk Insurance. During the undertaking of the Project and any subsequent repair work, Developer or the General 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 not be limited to the following: right to partial occupancy, material stored off-site and in-transit, boiler and machinery, earth movement, flood including surface water backup, sewer backup and seepage, collapse, water damage, debris removal, faulty workmanship or materials, testing, and mechanical-electrical breakdown. The City and Lender shall be named as loss payee.

(e) Contractors Pollution Liability Insurance. When any work related to the Project is undertaken which may cause an environmental exposure, Developer shall provide or cause to be provided Contractors Pollution Liability Insurance with limits of

1981

1000000000

not less than \$1,000,000 insuring bodily injury, property damage, and environmental clean-up costs. The City is to be named as an additional insured on a primary, non-contributory basis.

(f) All Risk Property Insurance. At closing, Developer shall obtain All Risk Property Insurance concerning the Property, and all improvements thereon, and obtain insurance coverage in the amount of the full replacement value of the facades of the Building to the standard as established in accordance with the status of the Building as a Chicago landmark. Upon completion of the Project as evidenced by the issuance of the Final Inspector's Certificate, Developer shall provide All Risk Property Insurance in the amount of full replacement value of the Property including improvements and betterments to protect against loss or damage to or destruction of the facility, with a special endorsement to the insurance policy covering the full replacement value of the facades of the Building. Coverage extensions shall include boiler and machinery, collapse, sewer back-up, sprinkler leakage and flood. The City and Lender shall be named as loss payees.

In the event of any damage or destruction to the Building caused by fire or other hazard, the insurance proceeds shall be utilized toward the renovation and rehabilitation of the Building; provided, however, that prior to the issuance of the Certificate by the City, if Developer and the City conclude that the Project improvements are destroyed beyond repair and will not be rebuilt, Developer and the City shall share in the insurance proceeds on the basis of their respective financial contributions toward the

1983/01/11

completion of the Project (including the acquisition costs for the Property and the amounts expended by the City for the renovation of the facades of the Building, except in the event that the City exercises its option to acquire the Property as provided for in this paragraph). In such event, at the sole option of the City (to be exercised, if at all, in connection with the disbursement of proceeds of insurance resulting from any such casualty), the City may elect to have the Property conveyed by Developer to the City for nominal consideration.

If the Project improvements are destroyed beyond repair subsequent to the issuance by the City of the Certificate but prior to the expiration of the Term of the Agreement, and if Developer, Lender (if any) and the City mutually conclude that the Project improvements are destroyed beyond repair and will not be rebuilt, then the insurance proceeds shall be distributed in the following order: (1) the Lender shall be repaid any amounts due and owing under the First Mortgage (or its replacement); (2) Developer shall be entitled to a reimbursement of all of its reasonable Project costs as certified by Developer, and reasonably approved by, the City; (3) the City shall be reimbursed for the amounts disbursed of the City's Financial Contribution; and (4) any remaining sums not utilized in (1) and (3) above shall be distributed to the City and Developer on a pro-rata basis determined by each party's respective contribution expended on the Project and the redevelopment of the Property. Furthermore, at the sole option of the City (to be

98616613

104-10000

exercised, if at all, in connection with the disbursement of proceeds of insurance resulting from any such casualty), the City may elect to have the Property conveyed by Developer to the City for nominal consideration.

(g) Professional Liability Insurance. When any architects, engineers, the General Contractor or other professional consultants perform work in connection with the 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.

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

Additional Requirements:

(aa) Developer will furnish the DPD 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 the Agreement. The

1111111111

Developer shall submit evidence of insurance on the City of Chicago Insurance Certificate Form or equivalent at or prior to the closing for the Property.

(bb) 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 Developer shall not be deemed to be a waiver by the City. Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve 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 stop work or suspend the Agreement until proper evidence of insurance is provided.

(cc) The insurance shall provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

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

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

(ff) Developer expressly understands and agrees that any coverages and limits furnished by Developer shall in no way limit

98616613

19510114

the Developer's liabilities and responsibilities specified within the Agreement documents or by law.

(gg) Developer expressly understands and agrees that any insurance or self insurance programs maintained by the City of Chicago shall apply in excess of and not contribute with insurance provided by the Developer under the Agreement.

(hh) 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.

(ii) Developer shall require the General Contractor and all Subcontractors to provide the insurance required herein or Developer may provide the coverages for Subcontractors. All Subcontractors shall be subject to the same insurance requirements of Developer.

(jj) If Developer or Subcontractor desires additional coverages, the Developer and each Subcontractor shall be responsible for the acquisition and cost of such additional protection.

(kk) The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

4.14 Prohibition Against Unpermitted Encumbrances.

Prior to the completion of the Project as certified by the City, neither Developer nor any successor in interest to the Property shall engage in any financing or other transaction the effect of which creates an encumbrance or lien upon the Property;

100-100000

E. The Redevelopment Documents set forth: (i) the City's general objectives for the Redevelopment Area; and (ii) certain specific planning and design criteria for the Redevelopment Area.

F. The City owns fee simple title to that certain parcel of real estate ("Property") referred to as Parcel 58-1 of the Redevelopment Area, which is situated at 32-36 North State Street, Chicago, Illinois and legally described on Exhibit A attached hereto,

G. The Property is presently improved with a fourteen story office building commonly known as the Reliance Building ("Building") and designated a Chicago landmark pursuant to that certain ordinance ("Landmarks Ordinance") adopted by the City Council of the City on July 11, 1975. The Building is also listed on the Illinois Register of Historic Places and the National Register of Historic Places, and is also designated a National Historic Landmark.

H. The City has previously commissioned a study of the Building ("Historic Structures Report"), consisting in part of exterior and interior surveys, the history of the Building, and recommendations for the restoration of the exterior and the interior of the Building, the Historic Structures Report being dated as of July 11, 1994.

I. Pursuant to the terms of that certain Project Management Agreement dated as of November 30, 1994, the City caused the undertaking and completion of certain restoration work on the

provided, however, that Developer, subject to compliance with the Agreement and after receiving the prior written consent of the City, shall be permitted to obtain financing solely to obtain the First Mortgage as described in subsection 4.7(a) above to the extent necessary for completing the Project.

4.15 Mortgagees Not Obligated to Construct. Notwithstanding any of the provisions of the Agreement, the holder of any mortgage or its affiliate authorized by the Agreement (including any holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or by deed transfer in lieu thereof) shall not be obligated by the provisions of the Agreement to construct or complete the construction of the Project or to guarantee such construction or completion; provided, however, nothing in this subsection 4.15 or any section of the Agreement shall be deemed or construed to permit or authorize any such holder or its affiliate to devote the Property or any part thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or permitted in the Redevelopment Documents, the Preservation Easement and the Agreement, including, without limitation, subsections 5.3(d) and (e) of the Agreement. In the event, however, that Developer has obtained Lender Financing, if the Lender, due to the occurrence of a breach by Developer of its obligations under the First Mortgage (or its replacement) or the Agreement, obtains possession or title to the Property by foreclosure or deed in lieu of foreclosure, the Lender may be entitled, upon receipt of written approval by the DPD, to

98616613

11/11/11

utilize any unspent funds from the City's Financial Contribution to complete the Project as described in the Agreement, so long as Lender complies with the terms and conditions of the Agreement.

Whenever the City shall deliver a notice or demand with respect to any breach or default by Developer of its obligations under the Agreement, the City shall at the same time forward a copy of such notice or demand to any mortgagee whose address has been given in writing to the City. After any such default by Developer, each mortgagee shall (insofar as the City is concerned) have the right, at the mortgagee's option, to remedy such default.

Whenever the mortgagee shall deliver a notice or demand to Developer with respect to any breach or default by Developer of its obligations under the First Mortgage, the mortgagee shall at the same time forward a copy of such notice or demand to the City at the addresses listed in subsection 8.10 below. After any such default by Developer, the City and each mortgagee shall have the right to remedy such default to the extent such default is susceptible to being cured.

SECTION V

PERFORMANCE

5.1 Time of the Essence. Time is of the essence of the Agreement.

5.2 Permitted Delays. Neither the City, Developer, or any successor in interest to Developer, shall be considered in breach of its obligations with respect to the commencement and completion of the Project in the event of delay in the performance of such

1000000000

obligations due to causes, whether foreseeable or unforeseeable, beyond such party's control and without such party's fault or negligence, including but not limited to, any delays or halts in the restoration, renovation, rehabilitation and construction of the Project which are compelled by court order, acts of God, acts of the public enemy, acts of the United States, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, industry-wide lockouts, inability to obtain materials, work stoppages, embargoes and unusually severe weather or delays of contractors or subcontractors due to any such cause (collectively, "Permitted Delays"). The time for the performance of the obligations shall be extended only for the period of the Permitted Delays if the party seeking the extension shall request it in writing of the other party within twenty (20) days after the beginning of any such Permitted Delays.

5.3 Breach.

(a) **Generally.** Except as otherwise provided in the Agreement, in the event of default by any party or its successor in interest in the performance of its obligations under the Agreement, such party or successor, upon written notice from the other, shall proceed to immediately cure or remedy such default but, in any event, not later than sixty (60) days after receipt of such notice. In the event such action is not diligently pursued or the default not cured within such time, the aggrieved party may institute such proceedings at law or in equity as may be necessary or desirable in its sole discretion to cure and remedy such default, including but

98616613

1941

not limited to, proceedings to compel specific performance by the party in default of its obligations.

(b) Event of Default. For purposes of the Agreement, the occurrence of any one or more of the following, which remains uncured during the cure period afforded by subsection 5.3(a) above unless a different cure period is specifically provided with respect to any item set forth in this subsection 5.3(b) below, shall constitute an "Event of Default":

- (1) If, during the Term of the Agreement, any covenant, warranty, representation or statement made or furnished by Developer under the Agreement (including the covenants, representations and warranties of Developer described in subsection 2.1 above) has been breached or is not true and correct in any material respect and remains uncured after the cure period afforded by subsection 5.3(a); or
- (2) If any petition is filed by or against Developer under the Federal Bankruptcy Code or any similar state or federal law, whether now or hereinafter existing (and in the case of involuntary proceedings, failure to cause the same to be vacated, stayed or set aside within sixty (60) days after filing); or
- (3) Failure of Developer to develop the construction documents in accordance with subsection 4.4 above; or
- (4) If, unless otherwise governed by the terms and conditions set forth in subsection 5.2 concerning Permitted Delays,

98616613

11 11 11

Developer defaults in fulfilling its obligations with respect to the completion of the Project (including the nature of and the dates of the beginning and completion thereof) or abandons or substantially suspends renovation or construction work, and such default, violation, abandonment or suspension shall not be cured, ended or remedied within thirty (30) days of the date Developer receives written demand by the City to cure such default; or

- (5) Failure of Developer, consistent with the terms of this Agreement, to devote and use the Building and the Property as set forth in subsection 4.1 above and subsection 7.2 below; or
- (6) Failure of Developer to pay real estate taxes or assessments affecting the Property or any part thereof when due, or placing thereon any encumbrance or lien unauthorized by the Agreement, or suffering any levy or attachment to be made, or any materialmen's or mechanics' lien, or any other unauthorized encumbrance or lien to attach to the Property or any part thereof, and such taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to the City made for such payment, removal or discharge within sixty (60) days after written demand by the City to remove such lien or encumbrance, or security is posted with the City or the Title Company

11100000

1901

sufficient to satisfy such liens and costs; or

- (7) Default by Developer in the payment of any sums required to be paid by Developer pursuant to the Agreement, the First Mortgage Note or the Covenant of Performance, at the times specified therein or as a consequence of redemption or acceleration; or
- (8) The occurrence of an event of default within the context of the First Mortgage or the Covenant of Performance; or
- (9) Failure to comply with the public policy covenants and other provisions as described further in Section VII below, and such default continues for a period of sixty (60) days after delivery of notice; or
- (10) Any assignment, pledge, encumbrance, transfer, hypothecation or other disposition is made in violation of subsection 8.2 below or elsewhere in the Agreement; or
- (11) Failure to comply with Developer's Employment Opportunity Obligation provisions of Section VI and the various subsections thereof.

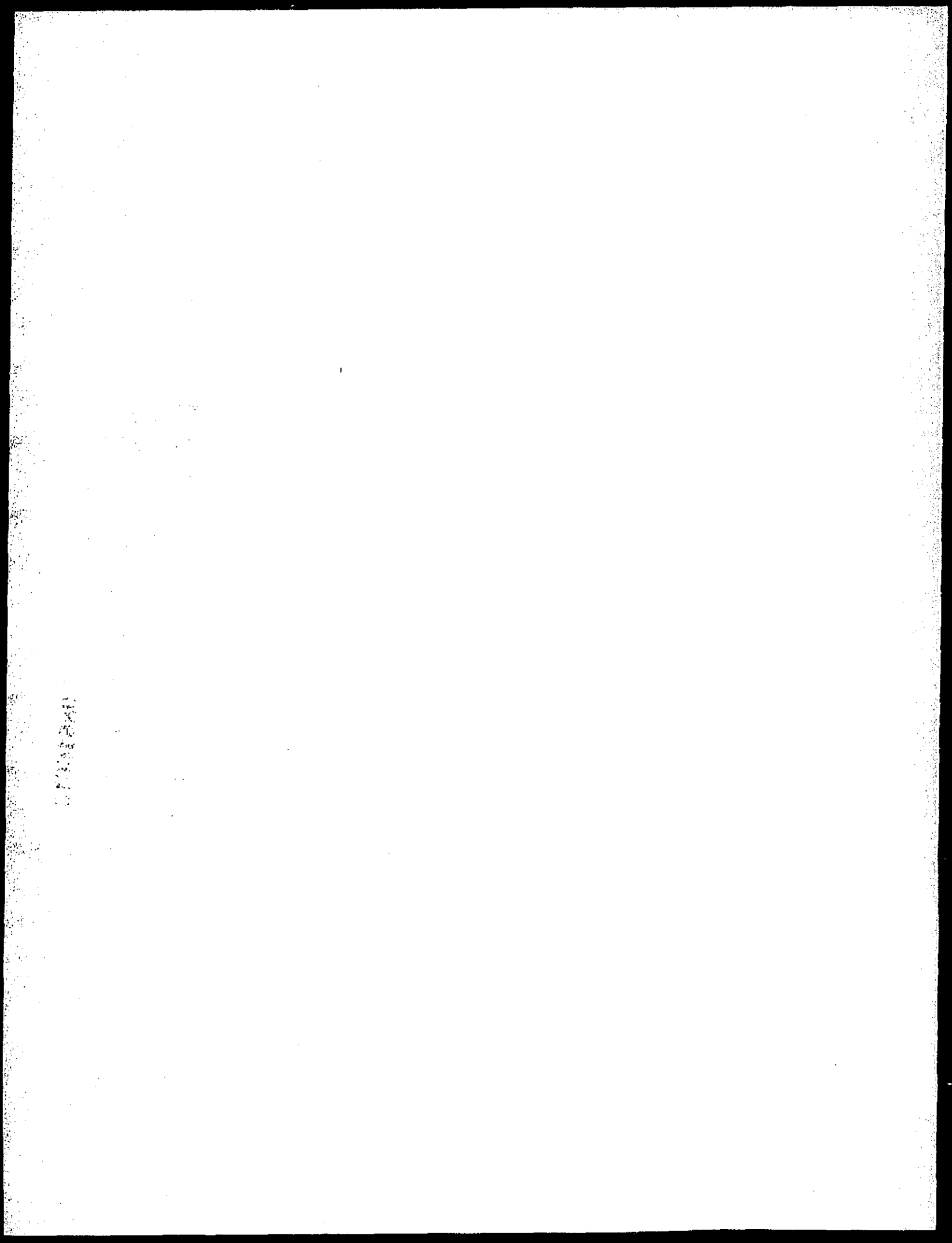
(c) Prior to Conveyance of the Property. If, from the execution date of the Agreement and before the City conveys to Developer the Deed to the Property, Developer defaults in any specific manner as described in paragraph (b) of this subsection 5.3, and fails to timely cure such default after the delivery of notice of default pursuant to subsection 5.3(a) or (b), as applicable, the City may, upon delivery of written notice to Developer and Lender, if any, immediately terminate the Agreement

11/10/1910

and institute any action or proceeding at law or in equity against Developer.

(d) After Conveyance of the Property Until Issuance of Certificate. If, subsequent to the conveyance of the Property to Developer by the City and until the City issues its Certificate, Developer defaults in any specific manner as described in paragraph (b) of this subsection 5.3, then the City, after written notice to Developer and opportunity to cure pursuant to subsection 5.3(a) or (b), whichever is applicable, may declare any amounts due and owing under the Covenant of Performance to be due and payable immediately upon any such declaration. In addition, the City shall have the right to re-enter and take possession of the Property, to terminate the estate conveyed by the Deed to said Property to Developer as well as Developer's right of title and all other rights and interests in and to the Property conveyed by the Deed to Developer, and re-vest title in said Property with the City; provided, however, that the acquisition of the Property by the City as described in this paragraph shall always be limited by, and shall not defeat, render invalid, or limit in any way (other than that which has been limited by the terms of the First Mortgage), the lien of the First Mortgage authorized by the Agreement for the protection of the holders of the First Mortgage.

Upon the acquisition by the City of title to the Property as described in this subsection 5.3(d), the City may elect to complete the Project by utilizing the City's Financial Contribution and such other funds as are necessary to complete the Project, including,



without limitation, funds to be provided by Daniel T. McCaffery pursuant to the Completion Guaranty, and by, if necessary, the hiring of an alternative General Contractor to complete the Project. Upon Completion of the Project, the City shall employ its best efforts to convey the Property through the issuance of a request for proposals ("RFP") to a Subsequent Developer who is a qualified and financially responsible party or parties as determined by the City, and which shall assume the obligation of utilizing and operating the Building (perhaps for a non-hotel use, if necessary) to the satisfaction of the City and in accordance with the uses specified for the Property in the Redevelopment Documents and the Agreement. The proceeds from the sale of the Property by the City to the Subsequent Developer shall be utilized and distributed to the holder of the First Mortgage, as is necessary to satisfy the same, and thereafter in accordance with the provisions described in subsection 5.3(f) below.

In the alternative, upon the acquisition by the City of title to the Property as described in this subsection 5.3(d), the City may elect to issue an RFP or enter into a negotiated sale to choose a Subsequent Developer willing to acquire and thereafter redevelop the Property. The Subsequent Developer shall be selected based on the following criteria (listed in terms of priority):

FIRST: the ability to complete the Project in accordance with the terms and conditions of the Redevelopment Documents and the Agreement and, upon the issuance of the Certificate by the City, to utilize and

18616613

operate the Building as a first class hotel, to the satisfaction of the City and in accordance with the uses specified for the Property in the Redevelopment Documents and the Agreement.

SECOND: the ability to redevelop the Property for purposes consistent with the Redevelopment Documents and the objectives of the City.

The sale and conveyance of the Property to the Subsequent Developer shall be undertaken in accordance with all applicable federal, state and local laws, ordinances and regulations and consistent with the objectives of the Redevelopment Documents and the Agreement.

(e) After Issuance of Certificate. Subsequent to the issuance of the Certificate until the expiration of the Term of the Agreement, Developer agrees to utilize the Property as a first class hotel, consistent with the Redevelopment Documents and the Agreement, and to comply with the terms of the Preservation Easement (which easement shall survive the Term). Developer, however, is permitted to convey the Property to an entity willing and able to operate and utilize the Property as a first class hotel. The selection of the entity shall be subject to the reasonable approval of the Commissioner. Such entity shall be obligated to continue to comply with the Redevelopment Documents, the Agreement, and the Preservation Easement as is appropriate.

In the event that Developer, subsequent to the issuance of the Certificate until the expiration of the Term of the Agreement,

100-10000

ceases to operate the hotel at the Property, or if the Building is converted to a use other than a hotel use, then in such event Developer shall pay to the City such amounts then due and owing in accordance with the Covenant of Performance. Developer or any successor entity, however, must continue to comply with the terms of the Preservation Easement.

In the event that, subsequent to the issuance of the Certificate until the expiration of the Term of the Agreement, the permanent lender forecloses against the Property, or Developer gives to the permanent lender a deed to the Property in lieu of foreclosure, the use restrictions as described in the Redevelopment Documents and the Agreement shall terminate but the terms and conditions of the Preservation Easement shall continue to run with the land. In such event, however, Developer shall pay to the City such amounts then due and owing in accordance with the Covenant of Performance.

(f) Distribution of Sale Proceeds. Upon the selection of the Subsequent Developer pursuant to the provisions contained in subsection 5.3(d) or 5.3(e), and the conveyance of the fee title to the Property from the City to the Subsequent Developer, the proceeds from said conveyance shall be utilized first to reimburse the City for:

- (a) costs and expenses incurred by the City with regard to the reconveyance of the Property from Developer, and the management and subsequent conveyance of the Property to the Subsequent Developer;

1000000000

exterior of the Building (the "Phase II Improvements", as such term is defined in the Project Management Agreement).

J. In accordance with the terms of the Agreement, the City will convey fee simple title to the Property to Developer, who shall preserve and restore the Building, including the retention and restoration of the historic interior of the Building, in accordance with the Landmarks Ordinance, the Historic Structures Report and the terms and conditions of the Agreement (the "Project" as more fully described below).

K. In order to ensure the preservation and maintenance of the historic features of the Building (including, without limitation, the facades), Developer and the City shall enter into an easement agreement ("Preservation Easement"), a copy of which is attached hereto as Exhibit N.

L. The City (as further described in the Agreement) has agreed to pay for or reimburse Developer for certain activities in conjunction with the undertaking of the Project utilizing Incremental Taxes (as hereinafter defined) collected as a result of the TIF Adoption Ordinance and/or the proceeds derived from the sale of City of Chicago Tax Increment Allocation Bonds (Central Loop Redevelopment Project), Series 1997, and more particularly the taxable Series 1997B portion thereof ("Bonds").

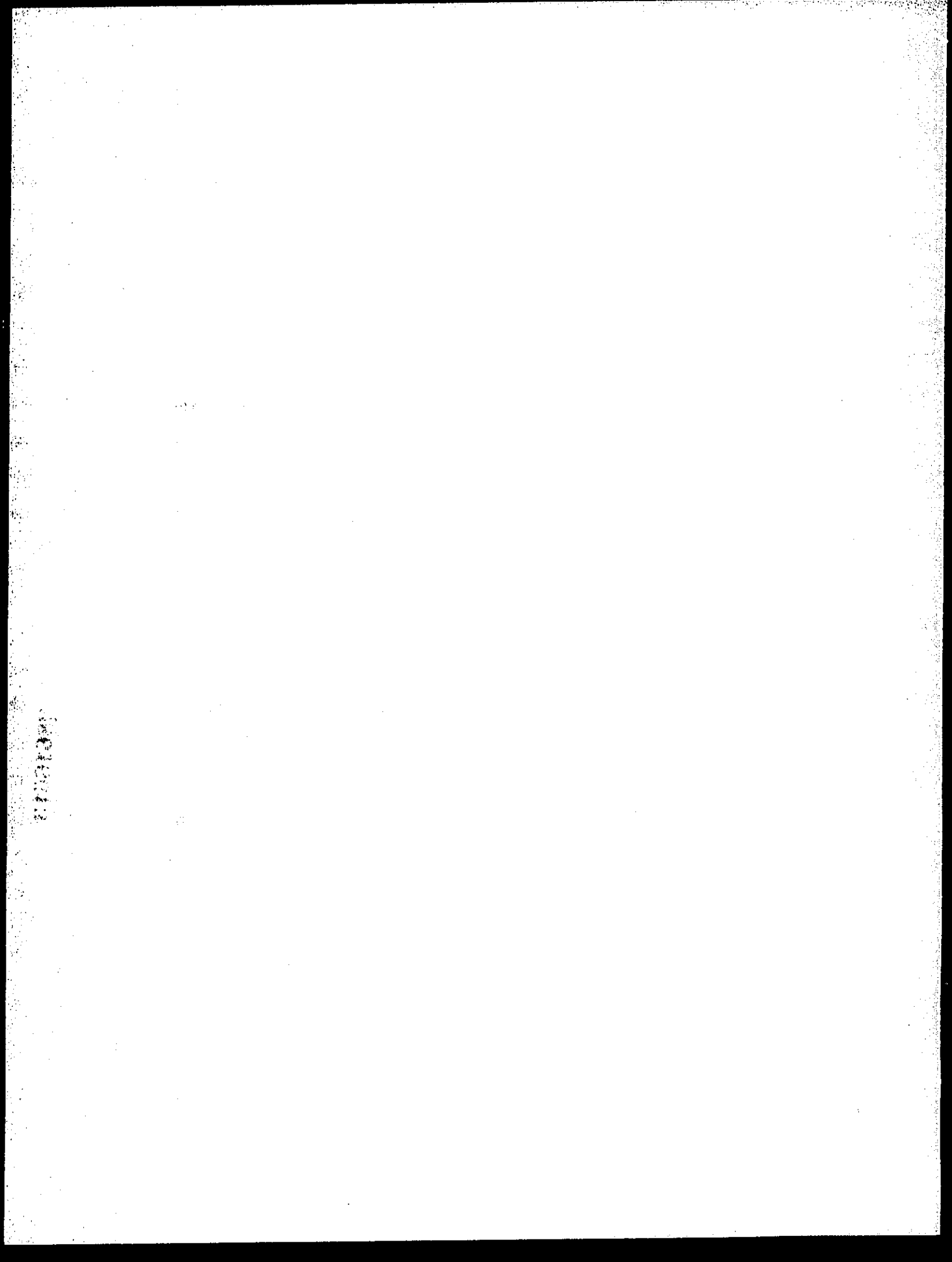
M. Developer and the City acknowledge that the implementation of the policies and provisions described in the Redevelopment Documents and the Agreement will be of mutual benefit to Developer and the City.

- (b) all taxes, assessments, and water and sewer charges with respect to the Property;
- (c) any payments made or necessary to be made (including attorneys' fees) to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of Developer, its successors or transferees;
- (d) any expenditures made or obligations incurred with respect to construction and maintenance of any Project improvements constructed on the Property; and
- (e) any other amounts owed to the City by Developer, its successors or transferees.

Any remaining sums shall be distributed to Developer..

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

5.5 Indemnity. Developer hereby agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, attorneys' fees and court costs) suffered or incurred by the City arising from or in



connection with and to the extent of: (i) the failure of Developer to perform its obligations under the Agreement; (ii) the failure of Developer or any contractor to pay contractors, subcontractors or materialmen in connection with construction of the Project; (iii) a material misrepresentation or omission in the Redevelopment Documents or the Agreement (or other document relating thereto) which is the result of information supplied or omitted by Developer or by agents, employees, contractors or persons acting under the control or at the request of Developer; (iv) any activity undertaken by Developer at the Property; and (v) any claim or cost relating to the soil and environmental condition of the Property.

5.6 Access to the Property. Subsequent to the acquisition of the Property by Developer until the expiration of the Term of the Agreement, any duly authorized representative of the DPD shall, at all reasonable times and upon reasonable notice to Developer (except in the event of an emergency), have access to the Property for the purpose of confirming Developer's compliance with the Agreement, the Redevelopment Documents, or both.

5.7 City's Right to Inspect Records. Developer agrees that the City shall have the right and authority to review and audit, from time to time, Developer's books and records relating to the Project, including, without limitation, Developer's loan statements, general contractor's sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices. All such books, records and other documents shall be available at the offices of Developer for inspection,

98616613

11001746

copying, audit and examination at all reasonable times by any duly authorized representative of the DPD.

SECTION VI

DEVELOPER'S EMPLOYMENT OPPORTUNITY OBLIGATION

6.1 Employment Opportunity. Developer agrees for itself and its successors and assigns, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of Developer operating on the Property (collectively, with Developer, the "Employers" and individually an "Employer") to agree, that during the Term of the 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 of Chicago, 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

98616613

11111111

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. 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 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.
- C. Developer, in order to demonstrate compliance with the terms of this subsection, 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.
- D. Developer and each Employer shall include the foregoing provisions of subparagraphs A through C 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.
- E. Failure to comply with the employment obligations described in this subsection 6.1 shall be a basis for the City to pursue remedies under the provisions of Section V hereof.

6.2 City Resident Employment Requirement. Developer agrees for itself and its successors and assigns, and shall contractually obligate the other Employers, 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 of Chicago as specified in Section 2-92-330 of the

11/11/03

Municipal Code of Chicago (at least fifty percent of the total worker hours worked by persons on the site of the construction for the Project shall be performed by actual residents of the City of Chicago); provided, however, that in addition to complying with this percentage, Developer and the other Employers shall be required to make good faith efforts to utilize qualified residents of the City of Chicago in both unskilled and skilled labor positions.

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

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

Developer and the other Employers shall provide for the maintenance of adequate employee residency records to ensure that actual Chicago residents are employed on the Project. Developer and the other Employers 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 the DPD in triplicate, which shall identify clearly the actual

00010010

1100-248

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 company hired the employee should be written in after the employee's name.

Developer and the other Employers shall provide full access to their employment records to the Purchasing Agent, the Commissioner of the DPD, the Superintendent of the Chicago Police Department, the Inspector General, or any duly authorized representative thereof. Developer and the other Employers 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 as evidenced by the Certificate.

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

Good faith efforts on the part of Developer and the other Employers to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Purchasing Agent) shall not suffice to replace the actual, verified achievement of the requirements of this subsection 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 Developer and the other Employers failed to ensure the fulfillment of the requirement of this subsection

100-100000

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 subsection. Therefore, in such a case of non-compliance it is agreed that 1/20 of 1 percent (.05%), 0.0005, of the aggregate hard construction costs set forth in the Budget (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by Developer and/or the other Employers 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 Developer and/or the other Employers or employee to prosecution. Any retainage to cover contract performance that may become due to Developer and the other Employers pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Purchasing Agent's determination whether Developer and the other Employers 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 the Agreement.

Developer shall cause or require the provisions of this subsection 6.2 to be included in all construction contracts and subcontracts related to the Project.

6.3 Developer's MBE/WBE Commitment. Developer agrees for itself and its successors and assigns, and shall contractually obligate the Employers to agree, that during the construction of the Project:

A. Consistent with the findings which support the Minority-Owned and Women Owned Business Enterprise Procurement Program ("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 subsection 6.3, during the course of construction of the Project, at least the following percentages of the aggregate costs (as set forth in the Budget), but specifically excluding the City's prior acquisition costs for the Property and the areas of construction costs noted in the Budget as being the subject of special exception, shall be expended for contract participation by minority-owned businesses ("MBEs") and by women-owned businesses ("WBEs"):

- a. At least 25% by MBEs.
- b. At least 5% by WBEs.

B. For purposes of this subsection 6.3 only, Developer (and any party to whom a contract is let by Developer pursuant to this Agreement) shall be deemed a "Contractor" and this Agreement (and any contract let pursuant thereto) shall be deemed a "Contract" as such terms are defined in Section 2-92-420, Municipal Code of Chicago. In addition, the term "minority-owned business" or MBE shall mean a business enterprise 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; and the term "women-owned business" or WBE shall mean a business enterprise identified in the Directory of Certified Women Business Enterprises

19870011

published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a women-owned business enterprise.

- C. Consistent with Section 2-92-440, Municipal Code of Chicago, Developer's MBE/WBE commitment may be achieved in part by Developer's status as an MBE or WBE (but only to the extent of any actual construction work performed by 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 construction work performed by the MBE or WBE), by Developer utilizing a MBE or a WBE as a contractor (but only to the extent of any actual construction work performed by such contractor), by subcontracting or causing a contractor to subcontract a portion of the work 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 Developer's MBE/WBE commitment as described in this subsection 6.3.
- D. Developer shall deliver quarterly reports to the DPD 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 Developer or a 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 the DPD in determining Developer's compliance with this MBE/WBE commitment. The DPD shall have access to Developer's books and records, including, without limitation, payroll records and tax returns, and records and books of account in accordance with subsection 5.7 of the Agreement on five (5) business days' notice, to allow the City to review Developer's compliance with its commitment to MBE/WBE participation.
- E. The City shall have the right to terminate the Agreement upon the disqualification of a contractor as a MBE or WBE, if the contractor's status as a MBE or WBE was a factor in the approval of Developer for this Project, and such status was misrepresented by the contractor or Developer. In addition, the City shall have the right to terminate this Agreement upon the

98616613

1980

disqualification of any MBE or WBE subcontractor or supplier of goods or services if the subcontractor's status as a MBE or WBE was a factor in the approval of Developer to participate in this Project, and such status was misrepresented by the contractor or Developer. In the event that Developer is determined not to have been involved in any misrepresentation of the status of the disqualified contractor, subcontractor or supplier, the City, at its option, may choose to not terminate the Agreement; provided, however, Developer shall be obligated to discharge or cause to be discharged the disqualified contractor or subcontractor or to terminate any contract or business with the disqualified supplier, and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this Paragraph E, the disqualification procedures are further described in Section 2-92-540, Municipal Code of Chicago.

- F. Any reduction or waiver of Developer's MBE/WBE commitment as described in this subsection 6.3 shall be undertaken in accordance with Section 2-92-450, Municipal Code of Chicago.

6.4 Pre-Construction Meeting; Monitoring Requirements.

Prior to the commencement of construction of the Project, Developer shall be required to meet with the monitoring staff of the DPD with regard to Developer's compliance with its employment obligations described in this Section VI and the construction contract compliance requirements described in subsection 4.6(b). Developer, the General Contractor and major Subcontractors shall be required to attend such pre-construction meetings. During said meeting, Developer shall demonstrate to the DPD its plan to achieve its employment obligations, the sufficiency of which must be approved by the DPD. During the construction of the Project, Developer shall submit documentation (as required in subsections 6.1-6.3 above) to the monitoring staff of the DPD. Failure to submit such documentation on a timely basis or, a determination by the DPD upon

98616613

0110122

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto hereby agree as follows:

DEFINITIONS

For all purposes of the Agreement, each of the following terms shall have the respective meaning assigned to it as follows:

Affidavits: Those certain affidavits and certifications executed and delivered by Developer as required by the City and consisting of an Economic Disclosure Statement, Anti-Scofflaw Affidavit, Certification Regarding Lobbying and any other customary affidavit or certification required by the City in connection with the Agreement and its undertaking to provide the City's Financial Contribution (as hereinafter defined).

Affiliate: Any person or entity directly or indirectly controlling, controlled by or under the common control with Developer.

Block 58: That certain block located in the City's Loop bounded on the east by North State Street, on the west by North Dearborn Street, on the south by West Madison Street and on the north by West Washington Street. The block is commonly referred to as "Block 58" of the City's Central Loop Project Area.

Bonds: The meaning set forth in Recital L.

Building: The meaning set forth in Recital G.

Central Loop Project Area: The meaning set forth in Recital C.

Central Loop TIF Plan: The meaning set forth in Recital C.

98616613

analysis of the documentation that Developer is not complying with its employment obligations described in this Section VI and the aforesaid construction contract compliance requirements described in subsection 4.6(b), shall, upon the delivery of written notice to Developer and lapse of the applicable grace period, be deemed an event of default. In such event, in addition to any remedies described in this subsection 6.4, the City may, as allowed in subsection 5.3(a), until such default is cured: (1) issue a written demand to Developer to halt construction of the Project; (2) withhold certain pertinent sums from payment to Developer or the General Contractor and Subcontractors; or (3) seek any other remedies against Developer available at law or in equity.

SECTION VII

PUBLIC POLICY COVENANTS AND POST-CERTIFICATE REQUIREMENTS

7.1 Developer's Public Policy Covenants. Developer shall not discriminate based upon race, color, religion, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military status, parental status or source of income in the use or occupancy of the Project or any improvements located or to be erected on the Property or any part thereof. In addition, Developer agrees that it shall comply with any and all federal, state and local laws, rules and regulations with regard to accessibility standards for the physically disabled, including, without limitation, the Fair Housing Act, 42 U.S.C. 3601 et seq. (1990), the Americans with Disabilities Act of 1990, 42 U.S.C.

98616613

12101 et seq. (1990) and 47 U.S.C. 152, 221, 225 and 611 (1990), the Illinois Environmental Barriers Act, 410 ILCS 25/1 et seq. (1992), and the Illinois Accessibility Code, 71 Ill.Admin.Code ch. 1, subch. B, sec. 400.100 et seq. (1988). The undertakings of the Developer in this subsection 7.1 are sometimes referred to herein as "Public Policy Covenants."

7.2 Use and Performance Requirements. From the period commencing with the issuance of the Certificate by the DPD and for the entire Term of the Agreement, Developer shall be obligated to comply with the following requirements and obligations with regard to the operation of the hotel at the Building and its ownership of the Property (collectively, the "Use and Performance Covenants"):

- (a) Maintenance of the historic elements of the Building. Developer shall maintain the historic elements of the Building in accordance with the terms and conditions of the Landmarks Ordinance, the Preservation Easement and the Agreement. This provision shall survive the Term of the Agreement.
- (b) Continuous Operation. Developer covenants to the City that it shall operate a first class hotel at the Building, with ancillary restaurant facilities complementary to the operation of a first class hotel, on a continual basis.

7.3 Employment Creation and Retention. Upon the issuance of the Certificate by the DPD and the commencement of the operation of the hotel at the Building by Developer, until the expiration of the Term of the Agreement, Developer shall be obligated to create and maintain at approximately one hundred sixteen (116) full-time permanent jobs, either directly related to the operation of the hotel or generally at the Property.

1000000

7.4 Public Benefits Program. Developer has entered into that certain Public Benefits Agreement with the City dated as of _____, 1998, substantially in the form attached hereto as Exhibit K, to cause the development and implementation of a public benefits program ("Public Benefits Program") affecting the operation of the hotel at the Building.

7.5 Status Reports. Developer shall provide the DPD with status reports (due on the first day of the month in which Developer commences with the construction of the Project and on a quarterly basis thereafter until the City issues the Certificate; thereafter, on a semi-annual basis commencing with the first day of the month in which the hotel at the Building is opened for business) describing in sufficient detail Developer's compliance with Developer's Public Policy Covenants, and the Use and Performance Covenants. Also, only on a semi-annual basis, Developer shall provide the City with a status report describing in sufficient detail Developer's compliance with the Public Benefits Program.

7.6 Real Estate Taxes and Other Governmental Charges.

(a) Governmental Charges.

(i) Payment of Governmental Charges. Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon Developer, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon the Developer or all or any portion of the Property or the Project.

SECRET

"Governmental Charge" shall mean all federal, State, county, City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to Developer, the Property or the Project, including but not limited to, real estate taxes.

(ii) Right to Contest. Developer shall have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. Developer's right to challenge real estate taxes applicable to the Property is limited as provided for below; provided, however, 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 Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in the Agreement unless Developer has given prior written notice to the DPD of Developer's intent to contest or object to a Governmental Charge and, unless, at the DPD's sole option: (i) Developer shall demonstrate to the DPD's satisfaction that legal proceedings instituted by 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

98616613

prior to final determination of such proceedings; and/or (ii) Developer shall furnish a good and sufficient bond or other security satisfactory to the DPD in such form and amounts as the 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 Developer fails to pay any Governmental Charge which may create a lien against the Property or any part thereof or to obtain discharge of the same, Developer shall advise the DPD thereof in writing, at which time the DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of Developer under the Agreement, in the DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which the DPD deems advisable. All sums so paid by the 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 the DPD by 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 Developer fails to pay any such Governmental Charge, the City, in its reasonable discretion, may require Developer to submit to the

98616613

00000000

1480110

City audited financial statements or other evidence of its financial condition at the Developer's own expense.

7.7 Covenants Running with the Land. The parties agree that the restrictions contained in this Section VII are covenants running with the land and shall be binding upon 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 TIF Plan and Redevelopment Area for the purposes of the TIF Plan are no longer in effect (excepting, however, the covenants described in the Preservation Easement). Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Property from and after the date hereof shall be made explicitly subject to such covenants and restrictions.

SECTION VIII

MISCELLANEOUS PROVISIONS

8.1 Entire Agreement. Except as otherwise provided herein, the Agreement contains the entire agreement of the parties with respect to the Project and supersedes all prior agreements, negotiations and discussions with respect thereto, and shall not be modified, amended or changed in any manner whatsoever except by mutual consent of the parties as reflected by written instrument executed by the parties hereto. Notwithstanding the foregoing, it is agreed that no material amendment or change shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council of the City (and approved by the

98616613

1941
1942

Lender, if any). The term "material" for the purpose of this subsection 8.1 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligation of Developer by more than five percent (5%) or materially changes the Property or character of the Project or any activities undertaken by Developer affecting the Property, the Project, or both, or increases any time agreed for performance by either party by more than ninety (90) days.

8.2 Assignability and Transfer. Unless permitted by the provisions contained in subsections 4.7(a), 5.3(c) and 5.3(d) above, Developer, until the City issues the Certificate with regard to the completion of the Project, shall not assign, transfer or convey any right, title or interest in the Project, the Property, or both, or any of its duties or obligations under the Agreement as they relate to the Project, the Property, or both.

8.3 Conflict of Interest - City's Representatives Not Individually Liable. No member of the Commission, the DPD, or other City board, commission or agency, official, or employee of the City shall have any personal interest, direct or indirect, in Developer, the Agreement, the Property or the Project; nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his or her personal interest or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. No member, official or employee of the City shall be

11/11/11

personally liable to Developer, or any successor in interest, to perform any commitment or obligation of the City under the Agreement nor shall any such person be personally liable in the event of any default or breach by the City.

8.4 Disclosure. Within ten (10) days prior to the execution of the Agreement by the parties, Developer shall deliver to the City evidence reasonably satisfactory to the Commissioner listing the members of Developer and disclosing any real property interests owned or managed by Developer.

8.5 Survival. All representations and warranties contained in the Agreement are made as of the execution date of the Agreement and the execution, delivery and acceptance hereof by the parties shall not constitute a waiver of rights arising by reasons of any misrepresentation.

8.6 Mutual Assistance. The parties agree to perform their respective obligations, including the execution and delivery of any documents, instruments, petitions and certifications, as may be necessary or appropriate, consistent with the terms and provisions of the Agreement.

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

11/10/2004

11/10/2004

8.8 No Merger with Deed. The provisions of the Agreement shall not be merged with the Deed from the City to Developer affecting the Property.

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

8.10 Notices. Any notice called for herein shall be in writing and shall be mailed postage prepaid by registered or certified mail with return receipt requested, or hand delivered and receipted, as follows:

If to the City: Commissioner
 Department of Planning
 and Development
 Room 1000, City Hall
 Chicago, Illinois 60602
 FAX: 312/744-0113

with a copy to: Corporation Counsel
 City of Chicago
 Room 610, City Hall
 Chicago, Illinois 60602
 Attn: Real Estate & Land
 Use Division
 FAX: 312/742-0277

If to Developer: Canal Street Hotel, L.L.C.
 c/o McCaffery Interests, Inc.
 Attn: Daniel T. McCaffery
 737 North Michigan Avenue
 Suite 2050
 Chicago, Illinois 60611
 FAX: 312/944-7107

08616613

1111111111

with a copy to:

Mayer, Brown & Platt
Attn: John J. Gearen
19 South LaSalle Street
Chicago, Illinois 60603
FAX: 312/706-8707

Notices are deemed to have been received by the parties three (3) days after mailing. Concurrent with such mailing, a copy of the notice shall be faxed to the above numbers. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

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

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

8.13 Recordation of the Agreement. Upon execution of the Agreement by the parties, Developer, at its sole expense, shall promptly record one original of the Agreement with the Office of the Recorder of Deeds of Cook County, Illinois.

8.14 Release. Upon the expiration of the Term of the Agreement, within thirty (30) days of receipt of written request, the City shall execute and deliver to Developer a release of the Agreement in recordable form.

8.15 No Third Party Beneficiary. The approvals given by the City pursuant to the Agreement and the Certificate when issued by

11/11/2000

Certificate: The certificate of completion to be issued by the City once the construction of the Project has been completed, in accordance with subsection 4.12 below.

City: The City of Chicago, an Illinois municipal corporation.

City's Financial Contribution: The funds to be spent by the City from Incremental Taxes and/or the proceeds of the Bonds described and defined as such in subsection 4.7(b) below.

Commission: The Community Development Commission of the City of Chicago.

Commissioner: The Commissioner of Planning and Development of the City of Chicago.

Commitment: The meaning set forth in subsection 4.7(a) below.

Completion: The substantial completion of the Project. The Project shall be considered substantially complete when improvements and all common or public areas of the Project are substantially finished and ready for use and occupancy for the purpose intended.

Completion Guaranty: That certain Completion Guaranty to be provided by Daniel T. McCaffery to the City substantially in the form attached hereto as Exhibit M in order to induce the City to enter into the Agreement.

Covenant of Performance: The covenant of performance to be provided by Developer to the City in connection with the Agreement and defined as such in subsection 4.7(b) below.

Design Plans: The meaning set forth in subsection 4.4(a).

the City shall be only for the benefit of Developer, the mortgagee or other lien holder, and their successors in interest in the Property and no other person or party may assert against the City or claim the benefit of such approval or certificate.

8.16 Approval. Wherever the Agreement provides for the approval or consent of the City, the DPD or the Commissioner, or any matter is to be to the City's, the 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, the DPD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor shall act for the City or the DPD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering the Agreement for the City.

8.17 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if Developer is required to provide notice under the WARN Act, 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 of Illinois, the Speaker and Minority Leader of the House of Representatives of the State, the President and Minority Leader of the Senate of the State, and the Mayor of each municipality where Developer has locations in the State of Illinois. Failure by Developer to provide such notice as described above may result in

11-11-11

the termination of all or a part of the reimbursement obligations of the City to Developer as set forth herein.

8.18 Successors and Assigns. The terms of the Agreement shall be binding upon the City, Developer, and their respective heirs, legal representatives, successors and assigns.

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

8.20 Counterparts. The 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.

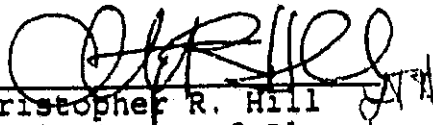
98616613

11/11/01

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

CITY OF CHICAGO,
a municipal corporation

CANAL STREET HOTEL, L.L.C.,
a Delaware limited liability
company


By: 
Christopher R. Hill
Commissioner of Planning
and Development


By: CANAL HOTEL PARTNERS, L.P.,
an Illinois limited
partnership

By: 
Daniel T. McCaffery
General Partner


By: RELIANCE INVESTORS, LTD,
an Illinois limited
partnership

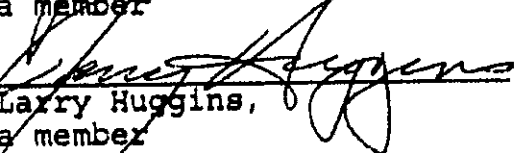
By: MANSUR EQUITIES, LTD,
a Florida corporation,
a general partner

By: 
E. Barry Mansur
President

By: 
Erik Moskowitz
Executive Vice President

By: GRANITE DEVELOPMENT, L.L.C.,
an Illinois limited liability
company

By: 
Joseph A. Williams,
a member

By: 
Larry Huggins,
a member

98616613

1000000000

11-11-11

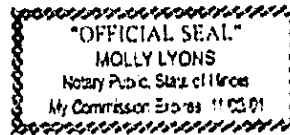
STATE OF ILLINOIS))
) SS
COUNTY OF COOK)

I, _____, a Notary Public in and for said County, do hereby certify that E. Barry Mansur, personally known to me to be the President of Mansur Equities, Ltd, a Florida corporation and the general partner of Reliance Investors, Ltd, a Florida limited partnership, which is a member of Canal Street Hotel, L.L.C., a Delaware limited liability company, 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 being first duly sworn by me acknowledged that as such President, he signed and delivered the said instrument, pursuant to authority given by Mansur Equities, Ltd, as his free and voluntary act and as the free and voluntary act of said corporation and general partner, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 7 day of July, 1998.

Molly Lyons
Notary Public

(SEAL)



My Commission expires 11/03/01.

98616613

11/16/2001

11/16/2001

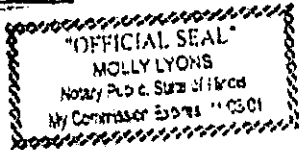
STATE OF ILLINOIS))
) SS
COUNTY OF COOK)

I, _____, a Notary Public in and for said County, do hereby certify that Erik Moskowitz, personally known to me to be the Executive Vice President of Mansur Equities, Ltd, a Florida corporation and the general partner of Reliance Investors, Ltd, a Florida limited partnership, which is a member of Canal Street Hotel, L.L.C., a Delaware limited liability company, 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 being first duly sworn by me acknowledged that as such Executive Vice President, he signed and delivered the said instrument, pursuant to authority given by Mansur Equities, Ltd, as his free and voluntary act and as the free and voluntary act of said corporation and general partner, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 7 day of July, 1998.

Molly Lyons
Notary Public

(SEAL)



My Commission expires 11/03/01.

08616613

1000

1000000000

0000000000

LIST OF EXHIBITS

A	Legal Description of the Property
B	Form of Deed
C	Permitted Exceptions
D	Schematics
E	Preliminary Budget
F	List of TIF Funded Improvements
G	Intentionally Omitted
H	Covenant of Performance
I	Opinion of Counsel
J	Inspector's Certificate
K	Public Benefits Agreement
L	Schedule
M	Completion Guaranty
N	Preservation Easement
O	Intentionally Omitted
P	Restoration Work

98616613

SECRET

BLOCK 58, CENTRAL LOOP PROJECT
REDEVELOPMENT AGREEMENT
RELIANCE BUILDING

TABLE OF CONTENTS

RECITALS	1
DEFINITIONS	6
SECTION I INCORPORATION OF RECITALS AND DEFINITIONS	13
SECTION II COVENANTS, REPRESENTATIONS AND WARRANTIES	13
2.1 Covenants, Representations and Warranties of Developer.	13
2.2 Representations and Warranties of the City.	17
2.3 Survival of Representations and Warranties.	17
SECTION III CONVEYANCE OF THE PROPERTY	18
3.1 Form of Deed.	18
3.2 Conveyance of the Property.	19
3.3 Closing Documents.	20
3.4 Title Insurance and Survey.	21
3.5 Real Estate Taxes.	21
3.6 Recordation of Deed.	22
SECTION IV THE CONSTRUCTION OF THE PROJECT	22
4.1 Description of the Project.	22
4.2 The Project's Development Parameters.	23
4.3 Right of Entry.	24
4.4 Submission of Construction Documents; Environmental Review.	24
4.5 Limited Applicability of DPD's Approval.	27
4.6 Construction Schedule; Hiring of General Contractor; Performance Bond; Purchase of Materials.	27
4.7 Financing the Project.	31
4.8 Relocation of Utilities.	47
4.9 Commencement and Completion of the Project.	47
4.10 Barricades; Security	48
4.11 Signs and Public Relations.	49
4.12 Certificate of Completion.	49
4.13 Insurance.	51
4.14 Prohibition Against Unpermitted Encumbrances.	58
4.15 Mortgagees Not Obligated to Construct.	58

98616613

Developer: Canal Street Hotel, L.L.C., a Delaware limited liability company.

Developer's Financial Contribution: The funds for the Project to be provided by Developer described and defined as such in subsection 4.7(a) below.

DPD: City of Chicago Department of Planning and Development.

Equity: The cash funds or direct-pay letter of credit comprising part of Developer's Financial Contribution to be delivered to the City in accordance with the provisions of subsection 4.7(a) below.

Environmental Laws: 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

98616613

EXHIBIT A

THE NORTH 1/4 AND THE NORTH 10 FEET OF THE SOUTH 3/4 OF
LOT 1 IN BLOCK 58 IN THE ORIGINAL TOWN OF CHICAGO IN THE
SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,
ILLINOIS.

Commonly known as: 32-36 North State Street,
Chicago, Illinois

PIN: 17-09-483-004-0000

98616613

1991-1992

EXHIBIT B

QUITCLAIM
DEED

Grantor, the CITY OF CHICAGO, an Illinois municipal corporation ("Grantor"), having its principal office at 121 North LaSalle Street, Chicago, Illinois 60602, for and in consideration of TEN and NO/100 DOLLARS (\$10.00), conveys and quitclaims, pursuant to ordinance adopted _____, 1998 (C.J.P. pgs. ____ - ____), to CANAL STREET HOTEL, L.L.C., a Delaware limited liability company ("Grantee"), having its principal office c/o CCR McCaffery Developments at 737 North Michigan Avenue, Suite 2050, Chicago, Illinois 60611, all interest and title of Grantor in the following described real property ("Property"):

THE NORTH 1/4 AND THE NORTH 10 FEET OF THE SOUTH 3/4 OF LOT 1 IN BLOCK 58 IN THE ORIGINAL TOWN OF CHICAGO IN THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 32-36 North State Street,
Chicago, Illinois

Permanent Index No.: 17-09-463-004-0000

Further, this quitclaim deed ("Deed") is made and executed upon, and is subject to certain express conditions and covenants hereinafter contained, said conditions and covenants being a part of the consideration for the Property and are to be taken and

98616613

100-100000

construed as running with the land, and Grantee hereby binds itself and its successors, assigns, grantees and lessees to these covenants and conditions, which covenants and conditions are as follows:

FIRST: Grantee shall devote the Property only to the uses authorized by Grantor and specified in the applicable provisions of: (i) that certain Redevelopment Plan for "Blighted Commercial Area North Loop" ("Plan"); (ii) that certain Tax Increment Redevelopment Plan and Redevelopment Project for North Loop Redevelopment Project, as amended and supplemented by, and incorporated into that certain Tax Increment Redevelopment Plan and Redevelopment Project for Central Loop Redevelopment Project ("TIF Plan"); and (iii) the terms and provisions of that certain agreement known as "Block 58, Central Loop Project Redevelopment Agreement, Reliance Building" ("Agreement") entered into between Grantor and Grantee as of _____, 1998 and recorded with the Office of the Recorder of Deeds of Cook County, Illinois on _____, 1998, as document #98_____. Specifically, in accordance with the terms of the Agreement, Grantee shall preserve and restore the building presently improving the Property (which is commonly referred to as the "Reliance Building"), including the retention and restoration of the historic interior of the Reliance Building, in accordance with the Reliance Building's status as a Chicago landmark, pursuant to the terms of that certain ordinance adopted by the City Council of the City of Chicago on July 11, 1975 ("Landmarks Ordinance"), and also in accordance with the terms and conditions described in

98616613

11/23/2011

that certain preservation and conservation easement ("Preservation Easement") between Grantor and Grantee, which easement is dated as of _____, 1998 and recorded with the Office of the Recorder of Deeds of Cook County, Illinois on _____, 1998 as document #98 _____.

SECOND: Grantee shall pay real estate taxes and assessments on the Property or any part thereof when due. Prior to the issuance by Grantor of a Certificate of Completion (as hereinafter defined), Grantee shall not encumber the Property, except to secure financing as is permitted in subsection 4.7 of the Agreement. Grantee shall not suffer or permit any levy or attachment to be made or any other encumbrance or lien to attach to the Property until Grantor issues a Certificate of Completion (unless Grantee has taken such appropriate action to cause the Title Company (as such term is described in the Agreement) to insure over any title encumbrances caused by such liens or claims).

THIRD: Grantee shall commence and complete the construction of the Project in accordance with the time period described in subsection 4.9 of the Agreement.

FOURTH: Unless otherwise permitted by subsection 8.2 of the Agreement, until Grantor issues the Certificate, Grantee shall have no right to convey any right, title or interest in the Property without the prior written approval of Grantor.

FIFTH: Grantee agrees for itself and any successor in interest not to discriminate based upon race, religion, color, sex, national origin or ancestry, age, handicap, sexual orienta-

98616613

100-100-100-100

tion, military status, parental status or source of income in the use of the Reliance Building.

SIXTH: During the construction of the Project, Grantee shall comply with those certain employment opportunity obligations and hiring covenants as further described in Section VI of the Agreement.

SEVENTH: Upon the issuance of the Certificate of Completion and for the entire Term of the Agreement, Grantee shall comply with the Use and Performance Covenants listed in Section VII of the Agreement, and with the terms and conditions of the Public Benefits Agreement, which is attached to the Agreement as Exhibit K.

The covenants and agreements contained in the covenant numbered **FIRST** and **SEVENTH** shall terminate on the expiration date of the Plan and the TIF Plan; excepting, however, the Preservation Easement and Landmarks Ordinance. The covenants and agreements contained in the covenant numbered **FIFTH** shall remain without any limitation as to time. The covenants and agreements contained in covenants numbered **SECOND**, **THIRD**, **FOURTH** and **SIXTH** shall terminate on the date Grantor issues the Certificate of Completion as herein provided except that the termination of the covenant numbered **SECOND** shall in no way be construed to release Grantee from its obligation to pay real estate taxes and assessments on the Property or any part thereof, and further, except that the termination of the covenant numbered **SIXTH** shall in no way be construed as to release Grantee from its Hiring

98616613

1000000

6. 1772 (1801)

Covenants made to Grantor (as further described in section 7.3 of the Agreement).

In the event that subsequent to the conveyance of the Property and prior to delivery of the Certificate of Completion by Grantor, Grantee defaults in or breaches any of the terms or conditions described in the Agreement or the covenants contained in this Deed which have not been cured or remedied within the period and in the manner provided for in the Agreement, the Deed, or both, Grantor may re-enter and take possession of the Property, terminate the estate conveyed by the Deed to Grantee as well as Grantee's right of title and all other rights and interests in and to the Property conveyed by the Deed to Grantee, and re-vest title in said Property with the City; provided, however, that said re-vesting of title in the City shall always be limited by, and shall not defeat, render invalid, or limit in any way, the lien of the First Mortgage (as defined in the Agreement) for the protection of the holders of the First Mortgage.

Notwithstanding any of the provisions of the Deed or the Agreement, including but not limited to those which are intended to be covenants running with the land, the holder of the First Mortgage or a holder who obtains title to the Property as a result of foreclosure of the First Mortgage or deed in lieu thereof shall not be obligated by the provisions of the Deed or the Agreement to construct or complete the construction of the Project or to guarantee such construction or completion or to continue to abide by the use restrictions applying under the Agreement prior to foreclosure or deed in lieu thereof, nor shall

98616613

1970-1971

any covenant or any other provision in the Deed or the Agreement be construed to so obligate such holder. Nothing in this section or any section or provision of the Agreement or the Deed shall be construed to permit any such holder to construct improvements thereon other than those permitted in the Agreement.

Promptly after the completion of construction of the Project improving the Property, in accordance with the terms of the Agreement, Grantor shall furnish Grantee with an appropriate instrument in accordance with the terms of the Agreement ("Certificate of Completion"). The Certificate of Completion shall be a conclusive determination of satisfaction and termination of the agreements and covenants contained in the Agreement and in the Deed with respect to the construction of the Project and the dates for beginning and completion thereof.

The Certificate of Completion shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Property. If Grantor shall refuse or fail to provide the Certificate of Completion, Grantor, within thirty (30) days after written request by Grantee, shall provide Grantee with a written statement indicating in adequate detail what acts or measures will be necessary, in the opinion of Grantor, for Grantee to take or perform in order to obtain the Certificate of Completion.

98616613

01100000

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed in its name and behalf and its seal to be hereunto duly affixed and attested, by the Mayor and by the City Clerk, on or as of the _____ day of _____, 1998.

CITY OF CHICAGO, a
municipal corporation

BY:

RICHARD M. DALEY, Mayor

ATTEST:

JAMES J. LASKI, City Clerk

THIS INSTRUMENT PREPARED BY, AND
AFTER RECORDING, PLEASE RETURN TO:

Mark Lenz
Assistant Corporation Counsel
Real Estate & Land Use Division
City of Chicago
30 North LaSalle Street, Room 1610
Chicago, Illinois 60602

98616613

100-21111-1

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that James J. Laski, personally known to me to be the City Clerk of the City of Chicago, a municipal corporation, 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 being first duly sworn by me acknowledged that as Clerk, he signed and delivered the said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the City of Chicago, as his free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this ____ day of April, 1998.

NOTARY PUBLIC

(S E A L)

My commission expires _____.

98616613

11-11-54

EXHIBIT C
LIST OF PERMITTED EXCEPTIONS

1. TERMS, PROVISIONS, CONDITIONS AND LIMITATIONS OF THE ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICAGO, A COPY OF WHICH WAS RECORDED SEPTEMBER 15, 1980, AS DOCUMENT 25583825, FINDING THAT ON JULY 7, 1977, A SPECIAL SERVICE AREA WAS ESTABLISHED PURSUANT TO CHAPTER 120, ILLINOIS REVISED STATUTES, SECTION 1301, IN AND FOR "SPECIAL SERVICE AREA NUMBER ONE," AND AUTHORIZING THE LEVY OF ANNUAL TAXES ON ALL TAXABLE PROPERTY WITHIN SAID AREA FOR THE PAYMENT OF THE COST OF FURNISHING SPECIAL MAINTENANCE SERVICES IN AND FOR SAID AREA.
2. PARTY WALL AGREEMENT DATED FEBRUARY 10, 1890, AND RECORDED MARCH 18, 1890, AS DOCUMENT 1236125, MADE BY WILLIAM E. HALE WITH LEVI Z. LEITER, FOR A PARTY WALL ON THE DIVIDING LINES BETWEEN PROPERTY DESCRIBED AS LOT 1 IN ASSESSOR'S RESUBDIVISION OF LOTS 1 TO 5 IN ASSESSOR'S SUBDIVISION OF LOTS 1 TO 5 IN BLOCK 58 AND LOTS 2 AND 4 IN SAID RESUBDIVISION.
3. NOTICE BY THE COMMISSION ON CHICAGO HISTORICAL AND ARCHITECTURAL LANDMARKS, PURSUANT TO THE PROVISIONS AND PROCEDURES OF CHAPTER 21, SECTIONS 21-64.1 AND 21-64.2 OF THE MUNICIPAL CODE OF CHICAGO, DATED JANUARY 21, 1976 AND RECORDED JANUARY 26, 1976, AS DOCUMENT 23369993, DESIGNATING AS A "CHICAGO LANDMARK" THE STRUCTURE KNOWN AS THE "RELIANCE BUILDING," LOCATED AT 32 NORTH STATE STREET, CHICAGO.
4. ENCROACHMENT OF BUILDING LOCATED MAINLY UPON THE LAND OVER THE EAST LINE A DISTANCE OF 4.80 FEET TO 4.84 FEET, AND ENCROACHMENT OF BAYS OVER WASHINGTON STREET AND STATE STREET.
5. BLOCK 58, CENTRAL LOOP PROJECT REDEVELOPMENT AGREEMENT, RELIANCE BUILDING BY AND BETWEEN CANAL STREET HOTEL, L.L.C. AND THE CITY OF CHICAGO DATED _____, 1998 AND RECORDED _____, 1998 AS DOCUMENT _____.
6. PRESERVATION AND CONSERVATION EASEMENT EXECUTED BY CANAL STREET HOTEL, L.L.C. AND THE CITY OF CHICAGO DATED _____, 1998 AND RECORDED _____, 1998 AS DOCUMENT _____.

98616613

00000000

Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago.

Escrow: That certain construction escrow to be created by the parties pursuant to the provisions described in subsection 4.7(c) below.

Final Inspector's Certificate: The meaning set forth in subsection 4.7(c)(6).

General Contractor: A general or prime contractor meeting the prior approval of the DPD hired by Developer as general contractor to undertake the completion of the Project.

Hazardous Materials: 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 applicable 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.

Historic Structures Report: The meaning set forth in Recital H.

Incremental Taxes: Ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the TIF Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into a special tax allocation fund established to pay for Redevelopment Project Costs and obligations incurred in the payment thereof.

98616613

EXHIBIT D

Those certain Schematics entitled "Hotel Reliance, Kimpton Hotel & Restaurant Group" prepared by Antunovich Associates dated May 7, 1998.

98616613

10001000

EXHIBIT E

Reliance Budget

**THE RELIANCE BUILDING REDEVELOPMENT
CHICAGO, ILLINOIS
PROJECT COSTS**

USES OF FUNDS:

Designers & Engineers		
Architectural	\$	678,738
Structural	\$	123,407
MEP	\$	248,814
Civil	\$	28,000
Other Consultants	\$	714,284
	\$	<u>1,793,199</u>

Construction-Base Building		
Base Building-Plant	\$	11,888,700
Other Tenant Improvements	\$	50,000
Contingency	\$	300,888
	\$	<u>12,240,888</u>

Furniture, Fixtures & Equipment		
Guest Rooms	\$	810,000
Lobby	\$	180,000
Meeting Rooms	\$	30,000
Buildout Allowance-Restaurant/Club	\$	1,227,300
Equipment/Furniture/Acctg.	\$	407,148
All Other	\$	299,838
	\$	<u>2,225,986</u>

Pre-Opening Expenses		
Marketing Department	\$	212,100
Pre-Opening Labor	\$	188,478
Room Supplies	\$	88,888
Administrative	\$	147,800
All Other	\$	243,838
	\$	<u>870,994</u>

Closing, Insurance & Legal	\$	267,000
---------------------------------------	----	---------

Financing Fees & Expenses		
Loan Fees	\$	380,000
Investment Analysis	\$	20,000
Phase I Report	\$	5,000
Environmental Insurance	\$	20,000
	\$	<u>425,000</u>

Development Overhead, Fees & Expenses		
Development Fee	\$	700,000
Development Reimbursements	\$	200,000
Kington Fee	\$	100,000
	\$	<u>1,000,000</u>

Interest Carry	\$	1,300,000
-----------------------	----	-----------

Contingency	\$	639,278
--------------------	----	---------

TOTAL USES OF FUNDS: \$ 21,225,999

SOURCES OF FUNDS:

Construction Loan	\$	15,000,000
Owner's Contribution	\$	4,328,000
TIF Financing	\$	2,897,000

TOTAL SOURCES OF FUNDS: \$ 22,225,000

98616613

11/11/80

RELIANCE BUILDING RESTORATION M/WBE UTILIZATION PROJECTION BUDGET

Revised 5/29/98

USE OF FUNDS	Original Budget	Proposed Adjusted Budget for M/WBE Participation	Comments
Designers and engineers			
Architectural	\$878,738	\$878,738	
Structural	\$123,407	\$123,407	
MEP	\$248,814	\$248,814	
Civil	\$25,000	\$25,000	
Other Consultants	\$714,234	\$714,234	
<i>Subtotal</i>	\$1,788,193	\$1,788,193	
Construction-Base Building			
Base Building Plant	\$11,989,700	\$11,989,700	
Other Tenant Improvements	\$50,000	\$50,000	
Contingency	\$300,993	\$300,993	
<i>Subtotal</i>	\$12,340,693	\$12,340,693	
Furniture, Fixtures & Equipment			
Guest Rooms	\$910,000	\$910,000	
Lobby	\$150,000	\$150,000	
Meeting Rooms	\$30,000	\$30,000	
Buildout Allowance-Restaurant/Kitchen	\$1,227,300	\$1,227,300	
Equipment/Phones/Accig.	\$407,145	\$407,145	
All Other	\$505,538	\$505,538	
<i>Subtotal</i>	\$3,229,983	\$3,229,983	
Pre-Opening Expenses			
Marketing Department	\$212,100	\$212,100	
Pre-opening Labor	\$198,478	\$198,478	
Room Supplies	\$69,888	\$69,888	
Administrative	\$147,500	\$147,500	
All Other	\$242,888	\$242,888	
<i>Subtotal</i>	\$870,852	\$870,852	
Closing, Insurance & Legal	\$257,000	\$257,000	
Financing Fees & Expenses			
Loan Fees	\$360,000	\$0	
Investment Analysis	\$20,000	\$0	
Phase I Report	\$5,000	\$0	
Environmental Insurance	\$20,000	\$0	
<i>Subtotal</i>	\$405,000	\$0	
Development Overhead, Fees & Expenses			
Development Fee	\$700,000	\$700,000	
Development Reimbursements	\$200,000	\$200,000	
Kimpton Fee	\$100,000	\$100,000	
<i>Subtotal</i>	\$1,000,000	\$1,000,000	
Interest Carry	\$1,300,000	\$0	
Contingency	\$633,279	\$633,279	
TOTAL USES OF FUNDS:	\$21,825,000	\$20,120,000	

98616613

01101040

Exhibit F

"TIF-FUNDED IMPROVEMENTS"

"Block 58, Central Loop Redevelopment Project Area, Reliance Building"
Canal Street Hotel, L.L.C. Redevelopment Agreement

"Revised as of 5/5/98"

<u>Line Item Activity</u>	<u>Estimated Cost</u>
A) Designers & Engineers:	
• Architectural	\$ 678,738
• Structural	\$ 123,407
• MEP	\$ 248,814
• Civil Engineering	\$ 25,000
• Other Consultants	\$ 714,234
Sub-Total:	\$ 1,788,193
B) Rehabilitation - Base Building:	Sub-Total: \$ 11,982,700
C) Closing, Insurance & Legal:	Sub-Total: \$ 257,000
D) Financing Fees & Expenses:	
• Loan Fees	\$ 360,000
• Investment Analysis	\$ 20,000
• Phase I Report	\$ 5,000
• Environmental Insurance	\$ 20,000
Sub-Total:	\$ 405,000
Total:	\$ 14,439,893(*1)

98616613

*1 - This total of TIF-Eligible improvements is subject to the maximum level of reimbursement of \$2.5 million, as more fully described in the proposed redevelopment agreement between the City of Chicago and Canal Street Hotel, L.L.C. This TIF-Eligible budget may be amended from time to time by adjusting the values of individual line-item activities and sub-activities to reflect actual costs incurred with the prior written approval of the Department of Planning and Development.

SECRET

EXHIBIT G

Intentionally Omitted

18616513

Secretary

1920

EXHIBIT H

COVENANT OF PERFORMANCE

This Covenant of Performance ("Covenant of Performance") is made this ____ day of _____, 1998 by Canal Street Hotel, L.L.C., a Delaware limited liability company ("Developer"), to the City of Chicago, an Illinois municipal corporation ("City").

RECITALS

WHEREAS, the City Council of the City, by ordinance adopted _____, 1998, authorized the execution by Developer and the City of that certain "Block 58, Central Loop Project Redevelopment Agreement, Reliance Building" dated as of _____, 1998 ("Redevelopment Agreement"); and

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

WHEREAS, the Redevelopment Agreement provides inter alia for the conveyance by the City to Developer of certain real property located at 32-36 North State Street, Chicago (for purposes of this Covenant, the "Land") as legally described in Exhibit A attached hereto, and the restoration and redevelopment of the Project (for purposes of this Covenant, the "Project") on the Land (the Land and the Project are collectively referred to as the "Property"); and

WHEREAS, the Project was restored, renovated and redeveloped by Developer in part by utilizing sums derived from the City ("City's Financial Contribution", as such term is further described in the Redevelopment Agreement) in the aggregate amount of Three Million Five Hundred Thousand Dollars (\$3,500,000.00); and

WHEREAS, the City's Financial Contribution has been derived from Incremental Taxes allocated to the City in accordance with the TIF Plan and the TIF Adoption Ordinance and/or the proceeds derived from the sale of City of Chicago Tax Increment Allocation Bonds (Central Loop Redevelopment Project), Series 1997, and more particularly the taxable Series 1997B portion thereof; and

WHEREAS, any use of the City's Financial Contribution must be in accordance with any laws, regulations and ordinances governing the use of such funds, including, without limitation, the Illinois Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (1996); and

WHEREAS, the utilization of the City's Financial Contribution to pay for certain Redevelopment Project Costs is in consideration for the performance by Developer of certain obligations relating to the restoration, renovation and redevelopment of the Project, and

98616613

11/11/11

after the issuance of the Certificate by the City, of certain use and performance covenants until the expiration of the Term of the Agreement, and any sums of the City's Financial Contribution may be recovered by the City only upon the terms and conditions set forth in the Covenant of Performance (hereinafter defined) securing the same;

NOW, THEREFORE, in consideration of the benefits accruing to Developer as a result of the Redevelopment Agreement, Developer covenants to the City as follows:

1. It shall restore, renovate and redevelop the Project in accordance with the terms and conditions of the Redevelopment Agreement.
2. After the issuance of the Certificate by the City until the expiration of the Term of the Agreement, Developer shall perform and abide by those certain Use and Performance Covenants, as are more particularly described in subsection 7.2 of the Redevelopment Agreement.
3. If, from the execution date of the Covenant of Performance until the expiration of the Term of the Agreement ("Enforceability Period"), Developer defaults with regard to the performance of its construction requirements or fails to comply with the Use and Performance Covenants, and after the expiration of any applicable cure period, the City shall be entitled to recapture, and Developer shall be obligated to pay the City, an amount equal to \$3,500,000; provided, however, that this amount shall decline by an equal amount on the first day of each month subsequent to the execution date of this Covenant of Performance so that the amount potentially due and owing the City reaches \$0.00 by March 1, 2007.
4. Provided that Developer has complied fully with the terms of the Covenant of Performance during the Enforceability Period, the City, within thirty (30) days of receipt of a written request from Developer, shall issue a release of the Covenant of Performance.
5. Any payment of recapture sums as described in this Covenant of Performance to be made by Developer to the City pursuant to the Covenant of Performance shall be made at the Office of the City Comptroller for the City of Chicago, Illinois, or at such other places designated by the City.
6. If any lawsuit is instituted by the City to recover any sums owed the City pursuant to the Covenant of Performance, Developer agrees to pay all of the City's

98616613

1944-1945

costs incurred as a result of such collection, including reasonable attorney's fees and court costs.

7. Demand, protest and notice of demand and protest are hereby waived.
8. This Covenant of Performance is submitted to the City at City Hall in the City of Chicago, State of Illinois, and shall be deemed to have been made thereat. This Covenant of Performance shall be governed and controlled as to interpretation, enforcement, validity, construction, effect and in all other respects by the laws, statutes and decisions of the State of Illinois. Developer, in order to induce the City to accept this Covenant of Performance, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agrees that all actions or proceedings arising directly, indirectly or otherwise in connection with, out of, related to or from this Covenant of Performance shall be litigated, at the City's sole discretion and election, only in courts having a situs within the County of Cook, State of Illinois. Developer hereby consents and submits to the jurisdiction of any local, state or federal court located within said county and state. To the extent permitted by law, Developer hereby knowingly, voluntarily and intentionally waives the right it may have to a trial by jury in any litigation based hereon, or arising out of, under or in connection with this Covenant of Performance and any agreement contemplated to be executed in conjunction herewith. This provision is a material inducement for the City to enter into the Redevelopment Agreement with Developer.
9. This Covenant of Performance is not personally binding on Developer. The City shall have recourse only to the Property for the satisfaction of any amount owing hereunder, and the rights of the City shall be subject to the rights of the holder of the First Mortgage. This Covenant of Performance shall be binding until March 1, 2007 upon Developer as owner of the Property, and any successor owner.

98616613

11/10/2011

IN WITNESS WHEREOF, the Covenant of Performance has been duly executed by Developer, as of the date above written.

CANAL STREET HOTEL, L.L.C.,
a Delaware limited liability
company

By: CANAL HOTEL PARTNERS, LP,
an Illinois limited partnership

By: _____
Daniel T. McCaffery
General Partner

By: RELIANCE INVESTORS, LTD,
a Florida limited partnership

By: MANSUR EQUITIES, LTD,
a Florida corporation,
the general partner

By: _____
E. Barry Mansur
President

By: _____
Erik Moskowitz
Executive Vice President

By: GRANITE DEVELOPMENT, L.L.C.,
an Illinois limited liability
company

By: _____
Joseph A. Williams
President

By: _____
Larry Huggins
Treasurer

08616613

100-100000

EXHIBIT I

OPINION OF COUNSEL

[To be retyped on Canal Street Hotel's Counsel's letterhead]

_____, 1998

City of Chicago
City Hall
121 North LaSalle Street
Room 610
Chicago, Illinois 60602

ATTENTION: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to Canal Street Hotel, L.L.C., a Delaware limited liability company ("CSH"), in connection with the acquisition of that certain property ("Property") from the City of Chicago ("City") which is located at 32-36 North State Street, Chicago, in the Central Loop Tax Increment Redevelopment Project Area. The Property is presently improved with a fourteen story office building commonly known as the Reliance Building, which building has been designated as a State and City landmark and is also listed on the National Register of Historic Places. Pursuant to the terms of that certain redevelopment agreement executed by the City and CSH, CSH shall undertake to restore the interior and certain of the exterior features of the Reliance Building (the "Project", as said term is more fully described in the Redevelopment Agreement). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "Documents":

- (a) Block 58, Central Loop Project Redevelopment Agreement Reliance Building ("Redevelopment Agreement") executed by CSH and the City as of _____, 1998;
- (b) Escrow Agreement #98 _____ dated as of _____, 1998 executed by CSH, the City and Chicago Title and Trust Company, as Escrowee;
- (c) Covenant of Performance from CSH to the City dated as of _____, 1998; and
- (d) Public Benefits Agreement executed by the City and CSH as of _____, 1998;
- (e) Preservation and Conservation Easement executed by the City and CSH as of _____, 1998;

98616613

11-11-11

Inspector: The independent inspector selected by the City and Developer pursuant to subsection 4.7(c)(6) below.

Landmarks Commission: The Commission on Chicago Landmarks of the City.

Lender: The meaning set forth in subsection 4.7(a) below.

Lender Financing: The meaning set forth in subsection 4.7(a) below.

Letter of Credit: The meaning set forth in subsection 4.7(b) below.

Loan Agreement: The meaning set forth in subsection 4.7(a) below.

North Loop Project Area: The meaning set forth in Recital C.

North Loop TIF Plan: The meaning set forth in Recital C.

Phase II Improvements: The meaning set forth in Recital I.

Preservation Easement: That certain easement affecting the Property running with the land concerning the preservation and maintenance of the facades of the Building and certain of its interior improvements and features.

Project: The rehabilitation of the Building, including the restoration of the historic interior of the Building, and the development of the Building for use and operation of a first class hotel with related restaurant facilities (all as further described in Recital J and subsections 4.2 and 4.3 of the Agreement and Exhibit P), in accordance with Working Drawings and Specifications approved by the City pursuant to subsection 4.4 below.

98616613

- (f) Completion Guaranty from Daniel T. McCaffery to the City dated as of _____, 1998; and
- (g) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, we have examined:

(1) the original or certified copies of: (i) the limited liability company agreement for CSH ("LLC Agreement"); (ii) the limited partnership agreement for Canal Hotel Partners, LP; (iii) the limited partnership agreement for Reliance Investors, LTD; (iv) the limited liability company agreement for Granite Development, L.L.C.; (v) a certificate of good standing from the State of Illinois for CSH and Granite Development, L.L.C.; (vi) a certificate of good standing from the State of Illinois and the State of Florida for Mansur Equities, Ltd.; (vii) records of all proceedings relating to the Project; and

(2) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

In all such examinations, we have assumed the genuineness of all signatures (other than those on behalf of CSH), the authenticity of documents submitted to us as originals and conformity to the originals of all documents submitted to us as certified, conformed or photostatic copies.

Based on the foregoing, it is our opinion that:

1. CSH is a limited liability company duly organized, validly existing and in good standing under the laws of the state of Delaware, has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business under the laws of every state, including the State of Illinois, in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

2. CSH has full right, power and authority to execute and deliver the Documents to which it is a party and to perform its obligations thereunder. Such execution, delivery and performance will not conflict with, or result in a breach of, the LLC Agreement or result in a breach or other violation of any of the terms, conditions or provisions of any law or regulation, order, writ, injunction or decree of any court, government or regulatory authority, or, to the best of our knowledge after diligent inquiry, any of the terms, conditions or provisions of any agreement, instrument or document to which CSH is a party or by which CSH or its properties is bound. To the best of our knowledge after

98616613

diligent inquiry, such execution, delivery and performance will not constitute grounds for acceleration of the maturity of any agreement, indenture, undertaking or other instrument to which CSH is a party or by which it or any of its property may be bound, or result in the creation or imposition of (or the obligation to create or impose) any lien, charge or encumbrance on, or security interest in, any of its property pursuant to the provisions of any of the foregoing, other than in favor of the Lender.

3. The execution and delivery of each Document and the performance of the transactions contemplated thereby have been duly authorized and approved by all requisite action on the part of CSH.

4. Each of the Documents to which CSH is a party has been duly executed and delivered by a duly authorized officer of CSH, and each such Document constitutes the legal, valid and binding obligation of CSH, enforceable in accordance with its terms, except as limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting the enforcement of creditors' rights generally.

5. To the best of our knowledge after diligent inquiry, no judgments are outstanding against CSH, nor is there now pending or threatened, any litigation, contested claim or governmental proceeding by or against CSH or affecting CSH or its property, or seeking to restrain or enjoin the performance by CSH of the Agreement or the transactions contemplated by the Agreement, or contesting the validity thereof. To the best of our knowledge after diligent inquiry, CSH is not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in any respect under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse effect on CSH or its business.

6. To the best of our knowledge after diligent inquiry, there is no default by CSH or any other party under any material contract, lease, agreement, instrument or commitment to which CSH is a party or by which the company or its properties is bound.

7. To the best of our knowledge after diligent inquiry, all of the assets of CSH are free and clear of mortgages, liens, pledges, security interests and encumbrances except for those specifically set forth in the Documents.

8. The execution, delivery and performance of the Documents by CSH have not and will not require the consent of any person or the giving of notice to, any exemption by, any registration, declaration or filing with or any taking of any other actions in respect of, any person, including without limitation any court, government or regulatory authority.

9. To the best of our knowledge after diligent inquiry, CSH owns or possesses or is licensed or otherwise has the right to use

98616613

all licenses, permits and other governmental approvals and authorizations, operating authorities, certificates of public convenience, goods carriers permits, authorizations and other rights that are necessary for the operation of its business.

10. A federal or state court sitting in the State of Illinois and applying the choice of law provisions of the State of Illinois would enforce the choice of law contained in the Documents and apply the law of the State of Illinois to the transactions evidenced thereby.

This opinion is issued at CSH's request for the benefit of the City, its counsel and may not be disclosed to or relied upon by any other person.

Yours very truly,

98616613

1887

EXHIBIT A

**THE NORTH 1/4 AND THE NORTH 10 FEET OF THE SOUTH 3/4 OF
LOT 1 IN BLOCK 58 IN THE ORIGINAL TOWN OF CHICAGO IN THE
SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,
ILLINOIS.**

**Commonly known as: 32-36 North State Street,
Chicago, Illinois**

FIN: 17-09-463-004-0000

98616613

100-10000

48616613

EXHIBIT J

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on my observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed in such a manner that the quality of the Work is acceptable with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED FOR PAYMENT OF THE CONTRACT DOCUMENTS IS \$ _____.

DATE: _____

AMOUNT CERTIFIED \$
Architect's explanation of amount certified differs from the amount reported by
ARCHITECT:

By: _____ Date: _____
This Certificate is not negotiable. The AMOUNT CERTIFIED is for all work and
Contractor named herein, however, payment and acceptance of payment is not
prejudice to any rights of the Owner or Contractor under this Contract.

1000000

11/11/2000

EXHIBIT K

PUBLIC BENEFITS AGREEMENT

THIS PUBLIC BENEFITS AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____, 1998, by and between the CITY OF CHICAGO, an Illinois municipal corporation, having its principal office at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 ("City"), and CANAL STREET HOTEL, L.L.C., a Delaware limited liability company, having its principal address c/o CCR McCaffery Developments at 737 North Michigan Avenue, Suite 2050, Chicago, Illinois 60611 ("Developer").

RECITALS

WHEREAS, the City and Developer have executed that certain "Block 58, Central Loop Project Redevelopment Agreement, Reliance Building" dated as of _____, 1998 ("Redevelopment Agreement") relating to the acquisition by Developer of the Reliance Building ("Building") and the agreement of Developer to preserve the exterior of the Building and to undertake further restoration work to the exterior and the interior of the Building in accordance with the terms and conditions of the Redevelopment Agreement (the "Project"); and

WHEREAS, upon completion of the Project, Developer shall operate a first class hotel with ancillary first class restaurant facilities; and

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

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

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

1. Public Benefits Program. Developer shall provide, as public benefits to the City, the cash, cash equivalent and in-kind contributions, services, programs and benefits set forth in Schedule 1 attached hereto and incorporated herein by this reference ("Public Benefits Program"). The Public Benefits Program is primarily intended to be derived from the operation of the hotel and ancillary facilities at the Building by Developer or its agents. Developer's commitment and agreement to provide the Public

98616613

0000000000

Benefits Program shall last for the Term of the Agreement, being the period from the date hereof through and including March 1, 2007.

2. Reporting. During the Term of the Agreement commencing with the month that Developer begins construction of the Project, and thereafter on a semi-annual basis until the completion of construction of the Project, and thereafter, on the month that the Hotel Operator (as defined in Schedule 1 below) commences with the operation of the hotel and thereafter on a semi-annual basis until the expiration of the Term, Developer shall submit a general activity report for the Public Benefits Program covering the preceding reporting period and, to the extent feasible and foreseeable, projecting activities anticipated to occur for the upcoming reporting period with respect to the Public Benefits Program. Such reports shall be addressed and submitted to the Department of Planning and Development of the City (to the attention of the Commissioner) at the address therefor set forth in Paragraph 4 below.

3. Default. Failure of Developer to comply with the terms and conditions of this Agreement, which failure continues uncured for a period of sixty (60) days after written notice of default from the City, shall be a default hereunder and shall be considered an Event of Default under the Redevelopment Agreement.

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

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

If to Developer: Canal Street Hotel, L.L.C.
 c/o CCR McCaffery Developments
 737 North Michigan Avenue
 Suite 2050
 Chicago, Illinois 60611
 Attn: President

98616613

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

11/11/11

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

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

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

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

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

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

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

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

13. Term. The term hereof shall be for the Term of the Agreement. However, the term may be amended and extended by written agreement of the parties.

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

08616613

1940-1941

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

CANAL STREET HOTEL, L.L.C.,
a Delaware limited liability
company

By: CANAL HOTEL PARTNERS, LP,
an Illinois limited partnership

By: _____
Daniel T. McCaffery
General Partner

By: RELIANCE INVESTORS, LTD,
a Florida limited partnership

By: MANSUR EQUITIES, LTD,
a Florida corporation

By: _____
E. Barry Mansur
President

By: _____
Erik Moskowitz
Executive Vice President

By: GRANITE DEVELOPMENT, L.L.C.,
an Illinois limited
liability company

By: _____
Joseph A. Williams, member

By: _____
Larry Huggins, member

CITY OF CHICAGO,
an Illinois municipal corporation

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

98616613

00000000

SCHEDULE 1

Developer, in conjunction with the hotel operator for the Reliance Building project ("Hotel Operator"), will institute employment-related initiatives to ensure to the extent feasible, opportunities are afforded to City residents of the City of Chicago. Developer's initiatives will use the services of one or more of the following organizations, or other organizations acceptable to the City performing similar functions:

- ***CARE Center - Community Job Referral System***

The Community Area Resident Economic (CARE) Center aims to create a better standard of living for community residents by providing the necessary support services for residents to find and maintain employment and housing. The program combines the services of the Mayor's Office of Workforce Development/Workforce Solutions ("WDWS"), the Department of Housing and the Department of Planning and Development, along with other various agencies. CARE ensures that residents are informed of employment opportunities and prepares residents for employment through job-readiness training and skill-building services. Links with various local agencies enable residents to obtain services such as day care, transportation and other support to locate and maintain employment.

- ***School-To-Work Initiative with Hospitality Institute***

The school-to-work initiative prepares Chicago-area high school students for successful and meaningful careers in the hospitality industry. The initiative combines classroom training in hotel operations and management with paid employment and leadership opportunities. The consortium of strategic players-consisting of selected Chicago Public Schools, the MPEA Hospitality Institute, Target Group Inc. and the Hotel Operator will bring business and education together. The shared approach prepares students for successful employment in the hotel industry, creates a qualified pool of employees and decreases training and educational costs. As the employer, the Hotel Operator will engage in mentor relationships with student participants, make classroom presentations, provide paid employment opportunities for students, and consider program graduates for full-time employment.

- ***Prevailing Wage Requirement & Monitoring Function***

Target Group Inc. will work closely with the general contractor and all subcontractors to ensure that they understand and comply with the State of Illinois' Prevailing Wage requirements. Specific efforts will include developing pertinent contract language to be included in all subcontract agreements, reviewing certified payrolls for verification and site visits to ensure the requirements are being met.

98616613

100-100000

Property: That certain real estate in Block 58, defined as such in Recital F, and legally described on Exhibit A attached hereto.

Public Benefits Agreement: That certain agreement to be entered into between the City and Developer in connection with the Agreement substantially in the form attached hereto as Exhibit K.

Recorder's Office: The Office of the Recorder of Deeds of Cook County, Illinois.

Redevelopment Documents: The Redevelopment Plan and the North Loop TIF Plan, as amended by Part B of, and otherwise supplemented by, the Central Loop TIF Plan. The Redevelopment Documents shall include any revision made from time to time by the City, provided that no such revision shall: (i) alter the use of the Property for the purposes contemplated by the Agreement; (ii) substantially alter the schedule for Completion of the Project; or (iii) expressly require Developer to take any action or imposes on Developer an obligation that results in a material increase in the overall development costs of the Project or Developer's share thereof.

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

Related Agreements: The Covenant of Performance, the Public Benefits Agreement and the Completion Guaranty.

- ***Welfare to Work Program***

Employment opportunities designated by project contractors and the Hotel Operator will be listed in the Welfare to Work Program's Job Bank. Target Group will work with a consortium of strategic partners, led by the WDWS and the MPEA Hospitality Institute, to establish a skills training center to prepare participants for the workplace through a variety of skills assessments, job-readiness training and industry-specific training.

Participants will be identified by local community organizations and local agencies including the Illinois Department of Child and Family Services, the Illinois Department of Public Aid and the Chicago Housing Authority. Various supportive services, such as day care and financial counseling, will be provided to program participants to increase their success in the workplace. As participants graduate from work-preparedness training, they will be referred to potential employment opportunities through listings in WDWS' "Job Bank."

- ***WORKFORCE DEVELOPMENT***

Developer shall enter into an agreement with WDWS regarding the training, preparation and development of personnel to work for the Hotel Operator at the hotel. The agreement shall be substantially in the form of Exhibit A attached to this Schedule 1, and shall be attached to the operating agreement with the Hotel Operator.

0100720

000

EXHIBIT A

RELIANCE BUILDING HOTEL

AGREEMENT REGARDING MAYOR'S OFFICE OF WORK FORCE DEVELOPMENT

In connection with the execution of a redevelopment agreement for the rehabilitation of the Reliance Building at 32-36 North State Street in Chicago, between the City of Chicago ("City") and Canal Street Hotel, L.L.C. ("Purchaser"), the City and Purchaser have agreed to work together to provide employment opportunities as set forth below.

Under the renovation project, the Reliance Building will be renovated into a first-class hotel ("Hotel"). On completion of the renovation of the Hotel the Purchaser will work with its Hotel manager ("Manager") and the City to provide job opportunities to qualified job applicants residing in the City, particularly those qualified applicants who have been trained through the Mayor's Office of Work Force Development ("MOWD").

The Purchaser and its Manager will use reasonable, best faith efforts to provide job opportunities for up to 25 qualified trained applicants from MOWD. It is understood that MOWD will assess the needs of the Hotel commensurate with the service levels expected and will provide a referral pool of at least 25 qualified, trained, job ready graduates for the Hotel. Prerequisites to inclusion in the referral pool will include pre-screening, background checking and verification, prior job and previous histories, record checking, testing on a valid customized skills assessment test, submission of application records and skill level rating sheets after completion of the assessment test, and such other criteria as shall be reasonable with respect to the job being applied for.

This Agreement will be attached to and made a part of any Management Agreement made with a third party hotel operator.

Agreed this 8th day of May, 1998.

Purchaser: Canal Street Hotel, L.L.C.

Mayor's Office of Work Force Development

By: _____
in managing member

By: _____

98616613

110012000

1000000

EXHIBIT M

COMPLETION GUARANTY

THIS COMPLETION GUARANTY ("Guaranty") is made and entered into as of the ____ day of _____, 1998 by Daniel T. McCaffery ("Guarantor"), to and for the benefit of the City of Chicago, an Illinois municipal corporation (the "City").

RECITALS

WHEREAS, Canal Street Hotel, L.L.C., a Delaware limited liability company ("Developer"), has entered into that certain Block 58, Central Loop Project Redevelopment Agreement, Reliance Building with the City dated _____, 1998 ("Redevelopment Agreement") regarding the redevelopment of the Property that is owned or to be owned by Developer as contemplated therein; and

WHEREAS, pursuant to the Redevelopment Agreement, Developer has undertaken to complete the Project at the Property, which entails among other things the restoration and redevelopment of the Reliance Building, which currently improves the Property; and

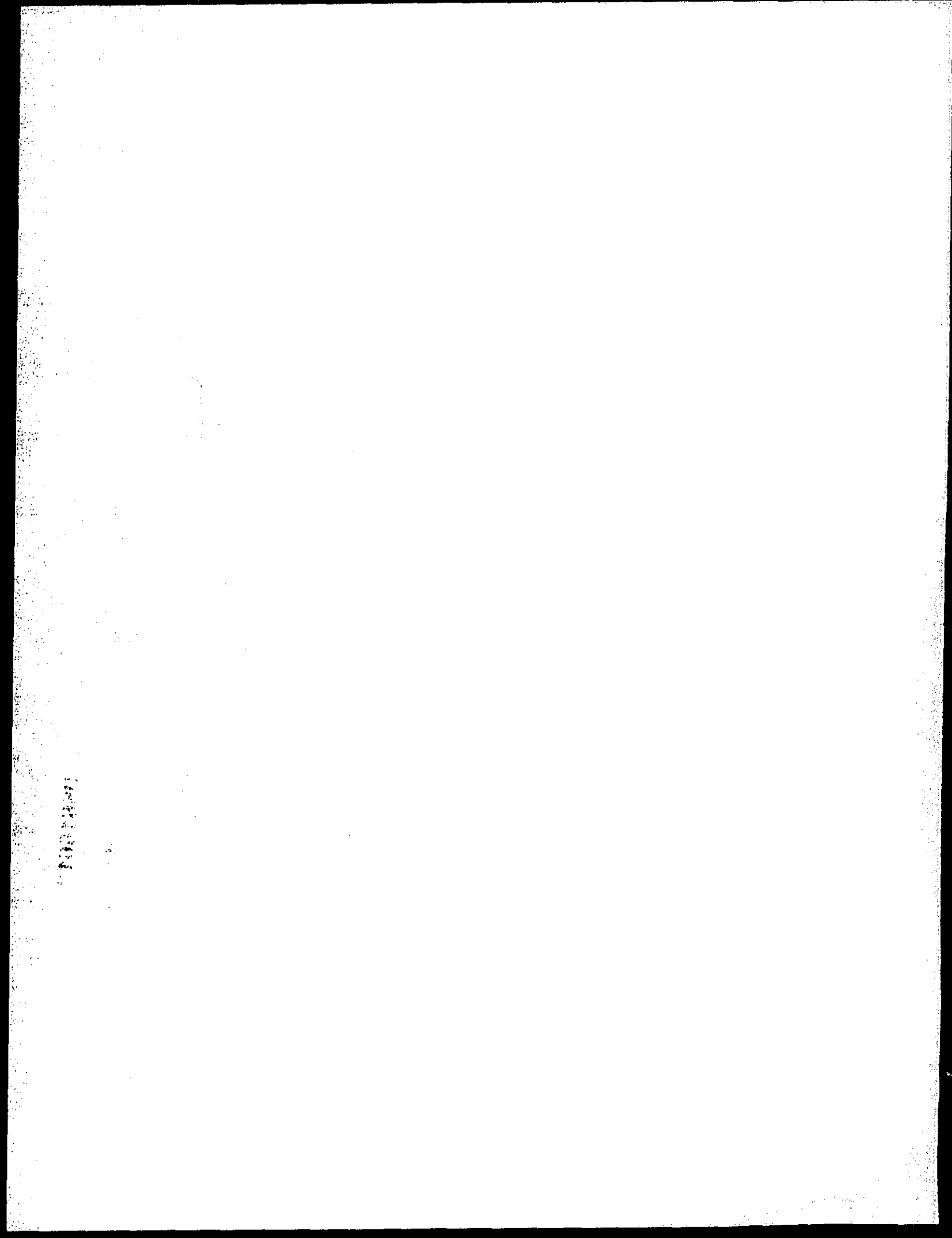
WHEREAS, Guarantor is the general partner of Canal Hotel Partners, L.P., an Illinois limited partnership, which limited partnership has a 47% interest in Developer and is the principal entity overseeing the undertaking of the Project; and

WHEREAS, as a condition of entering into the Redevelopment Agreement, the City has required that Guarantor enter into this Guaranty to secure the Completion of the Project on the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements contained herein and for other good and valuable consideration, including the City entering into the Redevelopment Agreement as induced by Guarantor providing this Guaranty, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by Guarantor as follows:

1. Definitions. For the purposes of this Guaranty, all capitalized terms not otherwise defined shall have the same definitions and meanings as are contained in the Redevelopment Agreement.

2. The Guaranty. Subject to the terms and conditions hereof, Guarantor irrevocably and unconditionally undertakes and guarantees (a) the full and faithful performance of the obligations set forth in the Redevelopment Agreement on Developer's part to be



kept and performed with respect to the Project, including without limiting the generality of the foregoing, the obligation to cause the Project to be developed, reconstructed and constructed within applicable time limitations set forth in the Redevelopment Agreement in accordance with permit plans and specifications which have been developed based on design development plans and specifications reviewed and approved by the City pursuant to the Redevelopment Agreement (as such final plans and specifications may be modified, amended or supplemented from time to time pursuant to and in accordance with the Redevelopment Agreement), and in any event to cause Completion of the Project by _____, 1999, subject to Permitted Delays (collectively, all such obligations are referred to herein as the "Construction Obligations"); and (b) the payment of all costs associated with Completion of the Project, all in accordance with the Redevelopment Agreement, including but not limited to, any and all increases to the Budget as approved from time to time by the City.

Upon Completion of the Project and fulfillment of all of the Construction Obligations and receipt from the City of the Certificate regarding Completion in accordance with Section 4.13 of the Redevelopment Agreement, all of the Construction Obligations undertaken by Guarantor and all the obligations of Guarantor to pay for or cause to be paid for Completion of the Project under this Guaranty shall be conclusively deemed to have been satisfied, except as qualified for amounts in respect of which there is a bona fide dispute until such dispute has been resolved or determined and all sums owed have been paid.

3. Construction Obligations of the Guarantor. If (a) the Construction Obligations are not timely performed by Developer, or (b) the City takes possession of the Property prior to the Completion of the Project by reason of an "Event of Default", as defined under the Redevelopment Agreement or the Covenant of Performance, or a refusal by Developer to continue performing the Construction Obligations, or (c) the City has the right to cease making or to refuse to make any further disbursements to Developer under the Redevelopment Agreement (any such nonperformance, taking of possession or refusal to make advances being herein sometimes called a "Default"), then, subject to the terms and conditions hereof, Guarantor unconditionally and irrevocably agrees:

- (i) within five (5) days after written demand by the City, to immediately assume full responsibility for the Completion of the Project under the same standards and other requirements as apply to Developer under the Redevelopment Agreement;
- (ii) at the cost and expense of Guarantor, to promptly and expeditiously perform the Construction Obligations in accordance with the provisions of the Redevelopment Agreement; provided that so long as (1) there is no

98616613

010378

1950

default by Guarantor hereunder and (2) but for Developer's failure to fully and faithfully perform the Construction Obligations, all conditions of an Advance by the City under the Redevelopment Agreement are satisfied, the City, from time to time as the Project progresses, shall make available to Guarantor so assuming the responsibility and obligations hereunder, any undisbursed amount in the City's Financial Contribution budgeted for purposes of Completion of the Project (but only in accordance with and limited by the applicable provisions in the Redevelopment Agreement regarding Advances), subject to performance by Guarantor of all Construction Obligations, including but not limited to compliance with the provisions thereof requiring as a pre-condition of any Advance by the City the deposit of additional funds with the Escrowee in the event that the total costs remaining to achieve Completion of the Project, as reasonably estimated and determined in accordance with the Redevelopment Agreement, shall exceed the undisbursed amount of required Developer's Financial Contribution when taking into account the City's Financial Contribution;

- (iii) to indemnify and hold the City harmless from any and all loss, cost, damage, liability or expense the City may suffer by reason of any Default described in clause (a) or clause (c) above; and
- (iv) to reimburse or repay the City fully and within five (5) days of written demand for all outlays and expenses that the City may incur or expend pursuant to Paragraph 4 of this Guaranty, including, without limitation, all outlays and expenses that the City may make or incur if the City, following a refusal to perform by Guarantor, in its sole discretion, elects to undertake Completion of the Project in substantial accordance with the terms of the Redevelopment Agreement, with such changes or modifications thereto as the City deems necessary and that do not materially adversely affect the design of the Project (except as otherwise permitted by the Redevelopment Agreement).

4. The City's Option to Complete the Project. If at the time of any Default giving rise to Guarantor's liability hereunder, there does not then or at any time during the course of Guarantor's performance hereunder exist an Event of Default (a "Performance Default") other than an Event of Default relating solely to Developer's failure to timely perform the Construction Obligations, then Guarantor may continue to retain the services of the General Contractor serving at the time of the Default or may select a competent and experienced successor construction manager or general contractor acceptable to the City.

1001001

If at the time of any Default giving rise to Guarantor's liability hereunder, or at any time thereafter until Completion of the Project, there exists a Performance Default, the City shall have the right, at its sole discretion, to determine whether or not (and, if so, to what extent) the Project should be continued. If and to the extent that the City elects to continue the Project following (a) any Default or (b) Guarantor's failure to perform its obligations under this Guaranty relating to the Completion of the Project and the other Construction Obligations within five (5) days after written demand, the City at its sole option, shall have the right to terminate the Construction Manager's agreement and replace the Construction Manager with a successor construction manager or general contractor selected by the City in its sole judgment and to take such other actions it believes necessary for the Completion of the Project as provided for in this Guaranty (but with the further right to suspend or terminate such actions at any time) either before, during or after commencement of any foreclosure proceedings and before, during or after the pursuing of any other remedy of the City against Developer or Guarantor, and expend such sums as the City in its reasonable judgment determines to be necessary or appropriate for the Completion of the Project in accordance with any approved plans and specifications, as may be qualified by the provisions of this Guaranty. No such actions by the City will release or limit the liability of Guarantor hereunder. The amount of any and all expenditures for the Completion of the Project made by the City for the foregoing purposes in excess of the amounts allocated herefor under the Budget or the Redevelopment Agreement as part of the City's Financial Contribution shall be immediately due and payable to the City by Guarantor on demand of the City. In addition, when notified by the City of the existence of any "Deficiency" (hereinafter defined), Guarantor will promptly pay to the City for deposit with the Escrowee an amount in cash equal to the amount of such Deficiency. As used herein, the term Deficiency means (a) the amount that the City reasonably determines will be required to be expended for Completion of the Project over (b) the undisbursed proceeds of the Developer's Financial Contribution and the City's Financial Contribution that is available pursuant to the provisions of the Redevelopment Agreement and this Guaranty. It is understood and agreed that any undisbursed funds or funds being held in any accounts created under or pursuant to the terms of the Redevelopment Agreement shall not be available to or for the benefit of Guarantor for payment of Project costs or any other costs for which Guarantor is responsible for hereunder except to the extent and in the manner set forth in Paragraph 3 above.

5. Representations and Warranties. The following shall constitute representations and warranties of Guarantor and Guarantor acknowledges that the City intends to enter into the Redevelopment Agreement in reliance thereon:

- (a) Guarantor is not in default and no event has occurred which with the passage of time and/or the giving of

98616613

11-22-1964

notice will constitute a default under any agreement to which Guarantor is a party, the effect of which will impair performance by Guarantor of its obligations pursuant to and as contemplated by the terms of this Guaranty, and neither the execution and delivery of this Guaranty nor compliance with the terms and provisions hereof will violate any presently existing provision of law or any presently existing regulation, order, writ, injunction or decree of any court or governmental department, commission, board, bureau, agency or instrumentality, or will conflict or will be inconsistent with, or will result in any breach of, any of the terms, covenants, conditions or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind that creates, represents, evidences or provides for any lien, charge or encumbrance upon any of the property or assets of Guarantor, or any other indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind to which Guarantor is a party or by which Guarantor or any of its property may be subject, or in the event of any such conflict, the required consent or waiver of the other party or parties thereto has been validly granted, is in full force and effect, is valid and sufficient therefor and has been approved by the City;

- (b) There are no actions, suits or proceedings pending or threatened against Guarantor before any court or any governmental, administrative, regulatory, adjudicatory or arbitrational body or agency of any kind that will adversely affect performance by Guarantor of its obligations pursuant to and as contemplated by the terms and provisions of this Guaranty; and
- (c) Neither this Guaranty nor any document, financial statement, credit information, certificate or statement heretofore furnished or required herein to be furnished to the City by Guarantor contains any untrue statement of material fact or omits to state a fact material to this Guaranty.

6. Certain Covenants. Guarantor agrees and covenants that:

- (a) Any indebtedness of Developer now or hereafter existing, together with any interest thereon, to Guarantor, and all rights of Guarantor to any fees, salaries or commissions due it or its affiliates from Developer whether current or accrued are hereby subordinated to any indebtedness of Developer to the City under any of the Redevelopment Agreement, Covenant of Performance or other Related Agreement (the "Deal Documents"), and such indebtedness

98616613

1901

of Developer to Guarantor in the event of a default hereunder or the existence of an Event of Default under the Deal Documents shall be collected, enforced and received by Guarantor in trust for the benefit of the City and shall be paid over to the City on account of any indebtedness of Developer to the City but without impairing or affecting in any manner the liability of Guarantor under the other provisions of this Guaranty. So long as no Event of Default exists under the Deal Documents and no default has occurred hereunder, Guarantor may apply to its accounts, payments made to it by Developer on Developer's indebtedness held by or due to Guarantor;

- (b) Any lien, security interest or charge on the Property, the personal property located thereon, all rights therein and thereto, or on the revenue and income to be realized therefrom, which Guarantor may have or obtains as security for any loans, advances or costs in connection with the Property and the Completion of the Project shall be, and such lien, security interest or charge hereby is, subordinated to all liens and security interests heretofore, now or hereafter granted by Developer under the Deal Documents; provided that the right of Developer to grant or permit any such lien, security interest or charge on the Property shall remain governed by, and limited to the extent provided in, the Deal Documents;
- (c) The liability of Guarantor shall in no way be affected, diminished or released by any extension of time or forbearance that may be granted by the City to Developer or any waiver by the City under any of the Deal Documents or by reason of any change or modification in any of said instruments or by the acceptance by the City of additional security or any increase, substitution or changes therein, or by the release by the City of any security or any withdrawal thereof or decrease therein or by the failure or election not to pursue any remedies it may have against Developer or Guarantor;
- (d) The City, in its sole discretion, may at any time enter into agreement with Developer or Guarantor to amend and modify any one or more of the Redevelopment Agreement, Covenant of Performance or Related Agreements (being the Deal Documents), and may waive or release any provision or provisions of any one or more thereof and, with reference thereto, may make and enter into any such agreement or agreements as the City, Developer or Guarantor may deem proper or desirable, without any notice to or further assent from Guarantor and without in any manner impairing or affecting this Guaranty or any of the City's rights hereunder;

98616613

1940

- (e) The City may enforce this Guaranty without the necessity at any time of resorting to or exhausting any other remedy or any other security or collateral and without the necessity at any time of having recourse to any of the Deal Documents or the Property, and without the necessity of proceeding against Developer or Guarantor;
- (f) Nothing contained herein or otherwise shall prevent the City from pursuing concurrently or successively all rights and remedies available to it pursuant to any document or agreement in law or in equity and against any persons, firms or entities whatsoever (and particularly, but not by way of limitation, the City may sue on the Covenant of Performance and otherwise exercise any other rights available to it under any one or more of the Deal Documents, including the Redevelopment Agreement or any other instrument of security), and the exercise of any of its rights or the completion of any of its remedies shall not constitute a discharge of any obligation of Guarantor hereunder, it being the purpose of intent of Guarantor that its obligations shall be absolute, independent and unconditional under any and all circumstances whatsoever;
- (g) The liability of Guarantor hereunder or any remedy for the enforcement thereof shall in no way be affected by (i) the release or discharge of Developer in any creditors' receivership, bankruptcy or other proceedings, (ii) the impairment, limitation or modification of the liabilities of Developer to the City or the estate of Developer in bankruptcy, or of any remedy for the enforcement of Developer's said liability under any of the Deal Documents, resulting from the operation of any present or future provision of the Bankruptcy Reform Act, as amended, or other statute or from the decision in any court, (iii) the rejection or disaffirmance of any of the Deal Documents in any such proceedings, (iv) any right, claim or offset which Guarantor may have against Developer or (v) any defense, current or future, Guarantor may or might have to its undertakings, liabilities and obligations hereunder or to any action, suit or proceeding at law or otherwise, that may be instituted on this Guaranty; and
- (h) Guarantor shall be obligated to pay all reasonable attorneys' fees, court costs and expenses that may be incurred by the City in enforcing the obligations of Guarantor hereunder.

7. Waivers. Guarantor waives (i) notice of acceptance of this Guaranty by the City and any and all notices and demands of every kind that may be required to be given by any statute or rule or law, except as required by any Deal Document, (ii) any defense

98616613

11/11/11

Request for Advance: The meaning set forth in subsection 4.7(c)3(d).

Schedule: The schedule for the dates of completion of the various Project activities, described on Exhibit L attached hereto, as the same may be revised and updated from time to time pursuant to the provisions of the Agreement.

Schematics: The meaning set forth in subsection 4.4(a).

Subsequent Developer: That certain entity which shall acquire the Property from the City in the event of a breach by Developer as more specifically described in subsection 5.3(d) below.

Term: The period for which the Agreement is in effect pursuant to the TIF Ordinances (through and including March 1, 2007).

TIF Act: The Illinois Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (1996), as amended from time to time.

TIF Funded Improvements: Those certain activities and improvements undertaken with respect to the Project which: (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the TIF Plan, and (iii) the City has agreed to pay for out of the City's Financial Contribution, subject to the terms and conditions of the Agreement.

Title Company: Chicago Title Insurance Company, or such other title company mutually selected by the parties in accordance with the terms and conditions of the Agreement.

arising by reason of any disability or other defense of the Developer, (iii) presentment, demand, notice of dishonor, protest and all other notices whatsoever, (iv) any right to participate in any security now or later held by the City, (v) any right to enforce remedies the City now has, or later may have, against Developer and (vi) diligence in collection or protection of or realization upon any of the Construction Obligations, any other obligation hereunder, or any security for or guaranty of any of the foregoing, and any and all formalities that otherwise might be legally required to charge Guarantor with liability.

8. Effect of the City's Delay or Action. No delay on the part of the City in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the City of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy. No action of the City permitted hereunder shall in any way affect or impair the rights of the City and the obligation of Guarantor under this Guaranty.

9. Use of Funds. All amounts received by Developer from Guarantor pursuant to this Guaranty shall be used by Developer solely to pay costs to construct, reconstruct and complete the Project.

10. Agreements not Contingent. It is understood and acknowledged that the carrying out by Guarantor of the covenants and agreements made by it herein is not in any contingent upon the carrying out by Developer or the City of any of their respective obligations or liabilities hereunder or under the Redevelopment Agreement or contained in any other instrument.

11. Frustration. It is the intention of Guarantor that, notwithstanding the occurrence or existence of any circumstance which but for this Paragraph might frustrate or be held to frustrate this Guaranty, the obligations and liabilities of Guarantor under this Guaranty shall continue in full force and effect as if such even or circumstance had not occurred or existed.

12. Continuing Obligations. The obligations of Guarantor hereunder are continuing obligations and a fresh cause of action shall be deemed to arise whenever and so often as Guarantor shall commit a breach of or be in default under any of its commitments or obligations hereunder. This Guaranty shall in all respects be a continuing, absolute and unconditioned guaranty, and shall remain in full force and effect until Completion of the Project.

13. Sale of Assets by Guarantor. Guarantor agrees that while this Guaranty is in force it will not sell its assets as an entirety or substantially as an entirety, unless, as a condition precedent to such sale, the transferee shall have agreed prior to or contemporaneously with its acquisition of such assets to assume

1970-1971

the obligations and liabilities of Guarantor under this Guaranty in form approved by the City, acting reasonably, without, however, releasing Guarantor of or from such obligations or liabilities.

14. Financial Statements. Guarantor agrees to furnish to the City, within ninety (90) days after the end of its fiscal year, a balance sheet and an income statement, each prepared in reasonable detail and in accordance with generally accepted accounting principles. In addition, Guarantor shall provide the City with such additional financial information as the City may reasonably require, but not more frequently than when Guarantor prepares its quarterly financial statements.

15. Time of Essence. Time is of the essence of this Guaranty.

16. Notices. Any notice, demand or request which may or is required to be given pursuant to this Guaranty shall be delivered to the parties at their respective addresses set forth below, and otherwise in accordance with the applicable provisions of Article 23 of the Redevelopment Agreement, which provisions are herein incorporated by reference:

(a) in the case of Guarantor:

CCR McCaffery Developments
737 North Michigan Avenue
Suite 2050
Chicago, Illinois 60611
Attn: Daniel T. McCaffery

with a copy to:

Mayer, Brown & Platt
190 South LaSalle Street
Chicago, Illinois 60603
Attn: John Gearen

(b) in the case of the City:

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

98616613

with a copy to:

The City of Chicago
Law Department
121 North LaSalle Street
Room 610
Chicago, Illinois 60602
Attn: Real Estate and Land Use Division

17. Modification. This Guaranty may not be modified, amended or, except as provided herein, terminated unless in writing and signed by the party or parties sought to be bound thereby.

18. Headings. The headings appearing before Paragraphs form no part of this Guaranty and shall be deemed to be inserted for convenience of reference only.

19. Severability. Whenever possible each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or be invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

20. Successors and Assigns. This instrument shall inure to the benefit of the City, its successors and assigns, and shall bind Guarantor and its successors and assigns and shall survive the acquisition by the City of title to the Property by foreclosure, deed in lieu of foreclosure or the exercise of any similar remedy.

21. Governing Law. This Guaranty is submitted to the City at City Hall in the City of Chicago, State of Illinois, and shall be deemed to have been made thereat. This Guaranty shall be governed and controlled as to interpretation, enforcement, validity, construction, effect and in all other respects by the laws, statutes and decisions of the State of Illinois. Guarantor, in order to induce the City to accept this Guaranty, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agrees that all actions or proceedings arising directly, indirectly or otherwise in connection with, out of, related to or from this Guaranty shall be litigated, at the City's sole discretion and election, only in courts having a situs within the County of Cook, State of Illinois. Guarantor hereby consents and submits to the jurisdiction of any local, state or federal court located within said county and state. To the extent permitted by law, Guarantor hereby knowingly, voluntarily and intentionally waives the right it may have to a trial by jury in any litigation based hereon, or arising out of, under or in connection with this Guaranty and any agreement contemplated to be executed in conjunction herewith. This provision is a material

98616613

11/19/34

inducement for the City to enter into the Redevelopment Agreement with Developer.

IN WITNESS WHEREOF, the undersigned Guarantor has duly executed this Guaranty as of the date first above written.

GUARANTOR:

Daniel T. McCaffery

98616613

100-21111

1958-1959

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

EXHIBIT N

PRESERVATION AND CONSERVATION EASEMENT AGREEMENT

THIS PRESERVATION AND CONSERVATION EASEMENT AGREEMENT ("Agreement"), dated _____, 1998, is made by and between CANAL STREET HOTEL, L.L.C., a Delaware limited liability company ("Grantor") and THE CITY OF CHICAGO, an Illinois municipal corporation ("City" or "Grantee").

RECITALS

A. Grantor is the owner of that certain parcel of land located in the City of Chicago, Illinois commonly known as 32-36 North State Street, and legally described in Exhibit A attached hereto ("Property"). The Property is presently improved with a fourteen story office building commonly known as the Reliance Building ("Building"), which Building was designated a Chicago landmark pursuant to that certain ordinance adopted by the City Council of the City on July 11, 1975 ("Landmarks Ordinance"). The Building is also listed on the Illinois Register of Historic Places and the National Register of Historic Places, and is also designated a National Historic Landmark. The Property and the Building are hereinafter collectively referred to as the "Premises."

B. A study to determine the features and elements of historical and/or architectural significance of the Building ("Historic Structures Report"), consisting in part of interior and exterior surveys, the history of the Building, and recommendations for the restoration of the interior and exterior of the Building, was prepared by McClier Corporation and dated as of July 11, 1994. As a result of the information obtained from the Historic Structures Report, the City caused the exterior of the Building to be restored and rehabilitated prior to the execution of this Agreement (such restoration work collectively to be referred to as the "Phase II Historic Improvements"), a written description and illustrative photographs of which are attached hereto on Exhibit B. Pursuant to the terms of that certain "Block 58, Central Loop Project Redevelopment Agreement, Reliance Building" ("Redevelopment

98616613

11. 11. 11. 11. 11.

Agreement") executed by Grantor and the City dated _____, 1998 and recorded with the Office of the Recorder of Deeds of Cook County, Illinois on _____, 1998 ("Recorder's Office"), including, without limitation, the terms and conditions set forth in Exhibit P of the Redevelopment Agreement, Grantor shall undertake to rehabilitate certain of the interior and the exterior of the Building, including the restoration of those historic elements referred to herein as the "Phase III Historic Improvements", a written description of which is also described on Exhibit B attached hereto. The Phase II Historic Improvements and the Phase III Historic Improvements are collectively referred to as the "Protected Elements". Grantor and Grantee agree that the Protected Elements shall be restored and preserved in accordance with the terms and conditions of this Agreement, the Landmarks Ordinance and the Historic Structures Report. All defined terms, unless defined herein, shall have the meanings ascribed to them in the Redevelopment Agreement.

NOW, THEREFORE, in consideration of One Dollar (\$ 1.00) and the mutual covenants and terms, conditions, and restrictions hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby does grant, give, convey unto Grantee, its successors and assigns, irrevocably forever, a conservation and preservation right, in perpetuity, in and to the Property and the Protected Elements located thereon owned by Grantor as may be necessary for the purposes of restoring and preserving the Protected Elements and accomplishing the other objectives set forth herein, on the following terms and conditions.

1. Preservation.

(a) Restoration. As described above, the Phase II Historic Improvements of the Building have been previously restored, a written description of which and accompanying photographs depicting the Phase II Historic Improvements in their restored state being further described on Exhibit B attached hereto. Developer shall undertake to restore and rehabilitate the Phase III Historic Improvements ("Restoration Work") in accordance with the terms and conditions of the Redevelopment Agreement (and Exhibit P of the Redevelopment Agreement), the Design Plans and Working Drawings and Specifications which are to be approved by the Landmarks Commission and the DPD. Once the Restoration Work is completed to the sole satisfaction of the DPD, an amendment to this Agreement ("Amendment") shall be prepared by the City, consisting of a written description of the Phase III Historic Improvements and accompanying photographs depicting the Phase III Improvements in their restored state. The Amendment shall represent the true condition and representation of the Protected Elements to be preserved in accordance with this Agreement. The Amendment shall be recorded by the City with the Office of the Recorder of Deeds of Cook County, Illinois ("Recorder's Office"). Grantor shall pay for all recordation charges.

98616613

100-100000

(b) Alteration. Without the prior written permission of the Landmarks Commission of the City of Chicago, Grantor shall not undertake or cause to occur any of the following actions:

(1) Except as provided in Sections 5 or 6 below:

(i) demolish or remove any portion of the Protected Elements;

(ii) alter the Protected Elements, including (without limitation) any alteration, construction, remodeling or other physical change, including any change in color or surfacing with respect to the appearance or construction of the Protected Elements, but in each case excluding ordinary and routine repairs and maintenance; or

(iii) alter the exterior or interior of the Building of a nature that directly and materially affects the Protected Elements and requires the issuance of a building permit;

(2) add signs or billboards that are attached to or protrude from the Protected Elements, or attach fences or awnings to the Protected Elements;

(3) expand or reduce the Building either horizontally or vertically;

(4) conduct or undertake corrosive chemical cleaning or sandblasting of the Protected Elements;

(5) build any permanent structures over or around the Protected Elements; or

(6) construct any rooftop improvements on the Building.

(7) Except in any instance of proposed actions described in this Section 1 affecting public health and safety, or other emergency immediately endangering the occupants of the Building, where Grantor reasonably believes expedited action is required given the extraordinary circumstance (an "Emergency Event"), Grantor shall, in each instance requiring written permission of Grantee which is not an Emergency Event, submit a written request to Grantee for Grantee's permission, with documentation reasonably appropriate to the request, not later than thirty (30) days prior to the date Grantee's permission is required. Grantee shall not unreasonably withhold or delay its written permission for the activities described in this Section 1. Any refusal of Grantee to give such written permission shall include a statement of reasons for any such refusal, and shall be delivered to Grantor by Grantee within thirty (30) days after receipt of Grantor's written request for such permission.

In the instance of an Emergency Event, Grantor may take such action as it deems reasonable under the circumstances, but only

98616613

01001000

the minimum temporary action necessary to mitigate or alleviate the Emergency Event, without prior written permission of Grantee. Grantor shall be affirmatively obligated to give prompt and immediate notice to Grantee on action undertaken by Grantor in response to an Emergency Event in the form of a telephone call and a facsimile transmission to the addresses listed in Section 26 below. Grantor shall be obligated to seek permission of Grantee for such action as soon as may be practical. To the extent subsequent permission is refused under this paragraph, Grantor shall take such further action as may be feasible consistent with the refusal of permission.

Grantee acknowledges that Grantor shall have the sole responsibility regarding the performance of all alteration, restoration and other construction work with respect to the rehabilitation, restoration, modernization, reconstruction or other alterations of any of the interior or exterior of the Building as described in this Agreement.

2. Maintenance. Grantor shall promptly perform all necessary maintenance on the Building and the Protected Elements in accordance with the terms and provisions of the Agreement, the Landmarks Ordinance, and the Standards (as defined in Paragraph 13 below) to preserve their appearance and structural soundness and to prevent their deterioration (in excess of ordinary wear and tear), in accordance with all applicable building and fire codes. Grantor shall maintain in working order those mechanical systems in the Building (including electrical, plumbing, heating and air-conditioning, if any) necessary to prevent deterioration (in excess of ordinary wear and tear) of the Building and the Protected Elements.

3. Demolition. Grantor shall not demolish, remove or raze the Building or any portion thereof, including the Protected Elements, in part or in its or their entirety, except as provided for in Sections 5 and 6 below.

4. Specification of Materials. In providing its written authorization for any work requiring such authorization from Grantee hereunder, Grantee may specify such design, materials, methods, detailing, cleaning substances and finishes and colors to be used in such work.

5. Casualty Damage or Destruction. In the event that the Protected Elements or the Building shall be materially damaged or destroyed by casualty, Grantor shall notify Grantee in writing within ten (10) business days after the damage or destruction, such notification to include a description of what, if any, emergency work has already been completed in response to an Emergency Event. No repair or reconstruction of any of the Protected Elements, other than temporary emergency work to prevent further damage to the Building or the Protected Elements, or response to an Emergency Event shall be undertaken by Grantor without Grantee's prior written approval of the work, which shall not be unreasonably withheld or

98616613

1840

delayed. Within thirty (30) calendar days after the date of any such damage or destruction involving the Protected Elements, Grantor shall submit to Grantee a written report prepared by a restoration architect and an engineer, if required, acceptable to Grantor and Grantee which shall include the following:

- (a) an assessment of the nature and extent of the damage to the Protected Elements;
- (b) a determination of the feasibility of the restoration of the Protected Elements;
- (c) a report of such restoration or reconstruction work necessary to return the Protected Elements to the condition existing immediately prior to the casualty. If in the opinion of Grantee, after reviewing such report, the purpose and intent of this Agreement will be served by such restoration/reconstruction (which determination shall be made by written notice to Grantor within thirty (30) days after Grantee's receipt of such report), Grantor shall, within six (6) months after the date of such damage or destruction (or such longer period as deemed necessary in consultation with the advice of the aforesaid restoration architect and engineer, if required), complete the restoration of the Protected Elements in accordance with plans and specifications approved by Grantee (including, without limitation, the DPD and the Landmarks Commission or their respective successors in interest). Grantor shall complete the restoration work to the extent of and utilizing insurance proceeds allocable to the Protected Elements to complete the restoration work of the Protected Elements to the satisfaction of Grantee.
- (d) in the alternative, in the event that damage or destruction is limited to some or part of the Protected Elements, the parties may agree that the damage or destruction of certain of those Protected Elements is so great that such Protected Elements need not be restored or reconstructed. In such event, the parties shall record an amendment to this Agreement removing such damaged or destroyed elements from the universe of Protected Elements; provided, however, that pursuant to the terms of this Agreement, Grantor shall continue to preserve those Protected Elements not damaged or destroyed, or if damaged, those Protected Elements restored or reconstructed in accordance with the procedures described in (c) above.

6. Grantee's Rights Following Casualty Damage. The foregoing notwithstanding, in the event of damage resulting from casualty as described in Section 5 above, which is of such magnitude and extent as to render restoration or reconstruction of the Protected Elements impracticable using all applicable insurance proceeds allocable to

98616613

1 11111111

11 1012/3

11 1012/3

WARN Act: The Worker Adjustment and Retraining Notification Act, 29 U.S.C. Sect. 2101 et seq. (1997).

Working Drawings and Specifications: Collectively, the final working drawings and specifications for the Project, which have been approved by the DPD.

SECTION I

INCORPORATION OF RECITALS AND DEFINITIONS

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

SECTION II

COVENANTS, REPRESENTATIONS AND WARRANTIES

2.1 Covenants, Representations and Warranties of Developer.

To induce the City to execute the Agreement and perform the obligations of the City hereunder, Developer hereby covenants, represents and warrants to the City as follows:

- (a) Developer is a limited liability company, duly organized, existing and in good standing under the laws of the State of Delaware. The members of the limited liability company are: Canal Hotel Partners, L.P., an Illinois limited partnership, Reliance Investors, Ltd, a Florida limited partnership, and Granite Development, L.L.C., an Illinois limited liability company (singularly, "Entity" and collectively, "Entities"). Developer is organized pursuant to that certain Canal Street Hotel, L.L.C.

the Protected Elements and any other funds available to Grantor as determined by reference to bona fide cost estimates, then:

(a) Grantee shall be entitled to its share of insurance proceeds allocable to the Protected Elements as determined in Section 8 below;

(b) Grantee may elect to reconstruct the Protected Elements (and any other affected areas of the Building) using its allocable insurance proceeds, donations, or other funds received by Grantor on account of or by reason of the casualty to the Protected Elements or received by Grantee on account of such casualty, but otherwise at Grantee's own expense (such expense of Grantee to constitute a lien on the Premises until repaid in full), provided that such election by Grantee must be made by written notice delivered to Grantor sixty (60) days after the cost of such restoration and the amount of such available insurance proceeds has been determined; or

(c) Grantee may choose any salvageable portions of the Protected Elements, remove them from the Premises, and petition for extinguishment of this Agreement pursuant to Section 21 below; provided, however, that such removal shall not be permitted hereunder if it would have an adverse effect on the Building or otherwise impair Grantor's ability to reconstruct the remaining portions of the Building should Grantor elect to undertake such reconstruction. Upon such extinguishment, this Agreement shall lapse and be of no further force and effect. Grantor shall deliver to Grantee a good and sufficient bill of sale for portions of the Protected Elements that Grantee may have chosen for salvage and that may be salvageable by Grantee in accordance with the terms and conditions hereof.

7. Inspection. Representatives of Grantee may enter onto the Premises and inspect the Building and the Protected Elements at reasonable intervals during normal business hours and upon reasonable advance written notice to Grantor for the purpose of determining Grantor's compliance with this Agreement.

8. Insurance. During the restoration by Grantor of the Phase III Historic Improvements in accordance with the Redevelopment Agreement, until the Amendment referred to in Section 1 above is recorded with the Recorder's Office, Grantor, at its expense, or its General Contractor and Subcontractors, as the case may be, shall maintain the types and levels of insurance as required in Section 4.13 of the Redevelopment Agreement. Once the Amendment is recorded, Grantor, at its sole expense, during the Term of the Agreement (as defined in Section 16 below), shall provide and maintain the insurance coverages and requirements specified below, insuring the preservation and maintenance of the Protected Elements as provided for in this Agreement:

08616613

1964

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

(b) All Risk Property Insurance. Grantor shall maintain All Risk Property Insurance Coverage, including improvements, betterments, and/or repairs at replacement cost for any cause whatsoever related to the Protected Elements. Specifically, Grantor shall obtain a special endorsement on the property insurance policy affecting the Building and the Premises guaranteeing the full replacement value of the Protected Elements to the standard as established in accordance with the status of the Building as a Chicago landmark. The City of Chicago shall be named as loss payee on such policy.

Grantor will furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street, Chicago, Illinois 60602, with: (i) original certificates of insurance evidencing the required coverage to be in force on the date of this Agreement, per the terms of the Redevelopment Agreement, and with regard to the types of insurance described in this Section 8, as of the date of the recordation of the Amendment; and (ii) Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the Term of this Agreement. Grantor shall submit evidence of insurance on the City of Chicago Insurance Certificate Form or equivalent. The receipt of any certificate does not constitute an 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 requirements of the Agreement. The failure of the City to obtain certificates or other evidence of insurance from Grantor shall not be deemed to be a waiver by the City. Grantor shall advise all insurers of the provisions in the Agreement regarding insurance. Non-conforming insurance shall not relieve Grantor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City's obligation to perform hereunder shall be suspended until proper evidence of insurance is provided.

The insurance shall provide sixty (60) days prior written notice to be given to the City in the event coverage is substantially non-renewed. Any and all deductibles or self-insured retentions on referenced insurance coverages shall be the responsibility of Grantor. Grantor agrees that insurers shall waive their rights of subrogation against the City

98616613

082101

of Chicago, its employees, elected officials, agents, or representatives.

Grantor expressly understands and agrees that any coverages and limits furnished by Grantor shall in no way limit Grantor's liabilities and responsibilities specified within the Agreement or by law.

Grantor expressly understands and agrees that Grantor bears the sole responsibility of insuring the Protected Elements and the Building.

The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation on the indemnity therein given a matter of law.

The City of Chicago Risk Management Department retains the right to modify, delete, alter or change these requirements.

9. Real Estate Taxes. Grantor shall promptly pay before delinquency all real estate taxes and special assessments assessed and levied against the Premises on or prior to the due date; provided, however, that Grantor may challenge any proposed levy of real estate taxes or special assessments if Grantor complies with all requirements of law necessary to prevent the sale of the Premises during the pendency of such challenge. Grantee shall have the right to pay such real estate taxes and special assessments at any time that such taxes and assessments may be delinquent, except for such taxes and assessments being contested by Grantor as provided hereinabove, after receipt of written notice from Grantee and expiration of the cure period described in Section 14 below. In the event Grantee makes such payment, there shall be a lien in Grantee's favor on the Premises in the amount thereof until such amount is repaid by Grantor.

10. Accessibility. Grantor shall, upon receipt of reasonable advance written notice from Grantee, make any portion of the Protected Elements located inside the Building publicly accessible not less than six (6) days (10:00 a.m. to 4:00 p.m.) per calendar year, and public access may be in the form of sponsored, guided tours conducted by Grantee or Grantee's agent.

11. Indemnity. Grantor shall indemnify, defend and hold harmless Grantee against any liability, costs, attorneys' fees, judgments or expenses to Grantee resulting from actions or claims of any nature by third parties arising from defaults under this Agreement by Grantor that are not cured within any applicable notice and cure period provided herein, excepting any such matters arising solely from the negligence or wilful misconduct of Grantee.

12. Mechanics' Liens. Grantor shall keep the Premises free from any mechanics' liens claimed by or through Grantor. If any such liens are placed against the Premises, Grantor shall diligently contest such liens and cause them to be released.

98616613

13. Additional Covenants. In furtherance of this Agreement, the parties covenant that, in exercising any right created by this Agreement in favor of Grantee to inspect the Protected Elements, to review any restoration, re-construction, alteration, repair, or maintenance of the Protected Elements, or to review casualty damage, or to restore or construct or approve restoration or reconstruction of the Protected Elements following casualty damage, in addition to such other standards as Grantee may apply (including, without limitation, those developed by the Landmarks Commission or its successor), Grantee shall apply the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, issued by and as may be amended from time to time by the Secretary of the United States Department of the Interior ("Standards"), and such state or local standards as may be considered appropriate by Grantee for review of work affecting historically or architecturally significant structures. Grantor agrees to so abide by the Standards in performing all ordinary repair and maintenance work and the maintenance program described in Section 2. In the event the Standards are abandoned or materially altered or otherwise become, in the reasonable judgment of Grantee, inappropriate for the purposes set forth above, Grantee may apply reasonable alternative standards and notify Grantor of the substituted standards.

14. Remedies. In the event of a violation of any representation, warranty, covenant or other provision of this Agreement that continues for thirty (30) days after written notice thereof from Grantee to Grantor (provided that, in the event Grantor commences to cure the violation within thirty (30) days, the cure period shall be extended for such additional time as may be required by Grantor through the exercise of continuous, diligent efforts to complete the cure), Grantee may, in addition to any other remedies provided herein, institute a suit for injunctive relief, specific performance or damages. In the event that Grantor fails to perform its obligation to maintain the Protected Elements, Grantee shall be entitled to damages in the amount estimated by an architect licensed in the State of Illinois and selected by Grantee as the cost of restoring or repairing the Protected Elements. Such damages shall be applied by Grantee to fund all required repairs and maintenance of the Protected Elements, and the cost thereof shall constitute a lien against the Premises until repaid by Grantor. In the event Grantor is adjudicated to have violated any of Grantor's obligations herein, Grantor shall reimburse Grantee for any costs or expenses incurred by Grantee in connection with the enforcement of its rights, including court costs and attorneys' fees.

15. Assignability. This Agreement may not be assigned by Grantee except, upon prior written notice to Grantor, to an agency of the State of Illinois, to a unit of local government, or a not-for-profit corporation or trust whose primary purposes include the preservation of buildings of historical, architectural or cultural significance, provided such assignee shall assume and become bound by the terms of this Agreement upon accepting such assignment.

98616613

1000000

16. Term. Subject to the provisions of Section 21 below, this Agreement shall be effective in perpetuity.

17. Runs with the Land. The obligations imposed by this Agreement shall be deemed to run as a binding servitude with the Premises. This instrument shall extend to and be binding upon Grantor and all persons hereafter claiming under or through Grantor, and the word "Grantor" when used herein shall include all such persons. Anything contained herein to the contrary notwithstanding, a person shall have no obligation pursuant to this instrument after such person shall cease to have any interest in the Premises by reasons of a bona fide transfer for full value or a transfer pursuant to foreclosure or deed-in-lieu of foreclosure, except that such a transfer shall not relieve any person from liability arising from acts or omissions committed by such transferor prior to such transfer.

18. Eminent Domain. In the event that an eminent domain proceeding is filed against all of the Premises or any portion of the Premises affecting the Protected Elements, Grantor and Grantee agree that the Grantee may participate in the litigation for the purposes of proving and recovering the damages caused to Grantee by the eminent domain action. In the event that an award is entered pursuant to an eminent domain action affecting the Protected Elements, Grantee shall be entitled to share in the award to the extent provided in Section 19 below.

19. Stipulated Value of Grantee's Interest. Grantor acknowledges that upon execution and recording of this Agreement, Grantee shall be immediately vested with a real property interest in that portion of the Premises known or referred to herein as the Protected Elements and that such interest of Grantee shall have a stipulated fair market value, for purposes of allocating net proceeds in an extinguishment pursuant to Section 21 below, equal to the ratio of the sum of \$3,500,000, which amount shall decline in equal monthly amounts commencing with the execution date of this Agreement until such amount reduces to \$0.00 on March 1, 2007, and the amount of construction costs expended by Grantor in rehabilitating the Building in accordance with the Budget approved by the City pursuant to the Redevelopment Agreement (hereinafter the "Conservation Right Percentage").

20. Intentionally omitted.

21. Extinguishment. Grantor and Grantee hereby recognize that an unexpected change in the conditions surrounding the Premises may make impossible the continued ownership or use of the Premises for the preservation and conservation purposes described in this Agreement and necessitate extinguishment of this Agreement. Such a change in conditions includes, but is not limited to, partial or total destruction of the Building or the Protected Elements resulting from a casualty of such magnitude that Grantee approves demolition as provided in Sections 5 and 6 above. Such an extinguishment must comply with the following requirements:

98616613

000000

SECRET

(a) The extinguishment must be the result of a final, non-appealable judicial proceeding or the written agreement of Grantor and Grantee that is recorded with the Cook County Recorder's Office;

(b) Grantee shall be entitled to share in any net proceeds attributable to the loss of the Protected Elements resulting from or related to the extinguishment in an amount equal to the Conservation Right Percentage determined pursuant to Section 19 multiplied by the net proceeds;

(c) the term "net proceeds" shall mean (i) all insurance proceeds, condemnation proceeds and awards, proceeds from a sale in lieu of condemnation, and proceeds from the sale, financing or exchange by Grantor of any portion of the Premises at the time of or relating to the extinguishment of this Agreement (but specifically deducting any preferential claim of a Mortgagee under Section 22), less (ii) all expenses incurred in connection therewith and attributable thereto in accordance with generally accepted accounting principles.

22. Subordination of Mortgages. Grantor and Grantee agree that all mortgages and rights in the Premises of all mortgagees and holders of other liens and encumbrances (collectively "lienholders") are subject and subordinate at all times to the non monetary easement rights and preservation covenants herein granted and to the rights of the Grantee to enforce such easement and covenants under this Agreement. Notwithstanding the foregoing the following provisions apply to all Mortgagees (as hereinafter defined) now existing or hereafter holding a mortgage on the Premises:

(a) If a mortgage grants to a Mortgagee the right to receive the proceeds of condemnation proceedings arising from any exercise of the power of eminent domain as to all or any part of the Premises or the right to receive insurance proceeds as a result of any casualty, hazard, or accident occurring to or about the Premises, the Mortgagee shall have a prior claim to the insurance and condemnation proceeds and shall be entitled to same in preference to Grantee until the mortgage is paid off and discharged.

(b) If a Mortgagee has received an assignment or mortgage of the leases, rents, and profits of the Premises as security or additional security for a loan, then the Mortgagee shall have a prior claim to the leases, rents, and profits of the Premises and shall be entitled to receive same in preference to Grantee until said Mortgagee's debt is paid off.

(c) Until a Mortgagee or purchaser at foreclosure obtains ownership of the Premises following foreclosure of its Mortgage or deed in lieu of foreclosure, the Mortgagee or purchaser shall have no obligation, debt, or liability under this Agreement.

(d) Before exercising any right or remedy due to breach of this Agreement, except the right to enjoin a violation hereof,

98616613

11/11/11

Grantee shall give all Mortgagees of record written notice describing the default, and, except where such default poses an imminent threat to the Building or the Protected Elements, the Mortgagees shall have sixty (60) days thereafter to cure or cause to cure the default; provided, however, that if Mortgagee commences such a cure within the aforesaid sixty (60) day period, Mortgagee shall be given such additional time as may be required to cure the default through the exercise of continuous, diligent efforts.

(e) Nothing contained in the above paragraphs or in this Agreement shall be construed to give any Mortgagee the right to extinguish this Agreement by taking title to the Premises by foreclosure or otherwise.

(f) Any lien against the Premises in favor of Grantee that arises under this Agreement and secures any payments made by Grantee or any rights or remedies of Grantee hereunder shall be subordinate in priority to the lien of any mortgage held by any Mortgagee. Any such subordinate lien in favor of Grantee shall automatically terminate in the event of a foreclosure or deed in lieu of foreclosure of any such mortgage.

(g) The Premises are or will be encumbered by one or more mortgages ("Mortgage") in favor of the holder of such Mortgage ("Mortgagee(s)") including, but not limited to) a Mortgage in favor of _____.

(h) For purposes of this instrument, the term "Mortgagee" shall include the holders of other bona fide indebtedness secured by a mortgage or trust deed, provided that such holder is an institutional lender or other third party unrelated to Grantor.

23. Notice from Government Authorities. Grantor shall deliver to Grantee, within five (5) business days of receipt by Grantor, copies of any notice, demand, letter, or bill relating to material noncompliance by Grantor with any applicable governmental requirements related to the Protected Elements. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice, demand, letter, or bill, where compliance is required by law.

24. Notice of Proposed Sale. Grantor shall promptly notify Grantee in writing of any proposed sale of the Premises and provide the opportunity for Grantee to explain the terms of this Agreement to potential new owners prior to the closing. Grantor shall include, in its sales agreement with any prospective purchaser, that such purchaser will be obligated prior to closing to deliver an affidavit to Grantee affirming its willingness and ability to perform the obligations of the Agreement as the successor in interest to Grantor of the Premises.

25. Statutory Authority. This instrument is made pursuant to Public Act 8-584, An Act Relating to Conservation Rights in Real Property, 765 ILCS 120/1-120/6 (1996) ("Act"), but the

98616613

000000

invalidity of such Act or any part thereof shall not affect the validity and enforceability of this instrument according to its terms, it being the intent of the parties that this instrument constitutes a preservation restriction, a common law easement in gross, a public easement under 35 ILCS 205/120 (1996), and an easement and covenant running with the land under 35 ILCS 205/266b (1996).

26. Notice. Any notice called for herein shall be in writing and shall be mailed postage prepaid by personal delivery or by registered or certified mail with return receipt requested, or hand delivered and receipted. If to Grantor, then at Canal Street Hotel, L.L.C., c/o CCR McCaffery Developments at 737 North Michigan Avenue, Suite 2050, Chicago, Illinois 60611; with a copy thereof to John Gearen, Mayer, Brown & Platt, 190 South LaSalle Street, Chicago, Illinois 60603; and if to Grantee, then at City of Chicago, Department of Planning and Development, Room 1000, City Hall, Chicago, Illinois, 60602, Attn: Commissioner, with a copy thereof to the Department of Law, City of Chicago, Room 610, 121 North LaSalle Street, Chicago, Illinois 60602. Each party may change its address set forth herein by a notice to such effect to the other party. The failure to serve a change of address notice shall not waive the notice requirement. For purposes of this section, delivery by commercial messenger service or overnight courier shall be deemed personal delivery.

27. Compliance with Applicable Ordinance. Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance relating to building materials, construction methods or use. In the event of any conflict between any such ordinance and the terms hereof, Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee or other appropriate authority to accommodate the purposes of both this Instrument and such ordinance.

28. Recordation. A copy of this Agreement shall be recorded with the Recorder's Office.

29. Plaque. Subject to obtaining all approvals from the U.S. Department of the Interior and other applicable governmental authorities required in connection with the Building's status as a National, State and Chicago landmark, Grantee shall have the right to install a plaque of suitable design on the Building, at a point easily visible by the public, from a public way, which plaque shall name the architect, the date of construction and state that the Premises are subject to this Agreement in favor of the City.

30. No Alienation. Upon execution of the Agreement by the parties, Grantor acknowledges that the rights granted to the Grantee in and to the Protected Elements under this Agreement can no longer be transferred, hypothecated or subjected to liens or encumbrances by Grantor.

98616613

00000000

31. Miscellaneous.

(a) In the event that any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not affect any other provision, and the other provisions hereof shall continue in full force and effect.

(b) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of property shall not apply in the construction or interpretation of this instrument, and this instrument shall be interpreted broadly to effect its preservation and conservation purposes and the transfer of rights and the restrictions on use herein contained.

(c) Except as expressly provided herein, nothing contained in this instrument grants, nor shall be interpreted to grant, to the public any right to enter on the Premises or into the Building.

(d) To the extent that Grantor owns or is entitled to development rights which may exist now or at some time hereafter by reason of the fact that under any applicable zoning or similar ordinance the Premises may be developed to a use more intensive (in terms of height, bulk or other objective criteria regulated by such ordinances) than the Premises are devoted as of the date hereof, such development rights shall not be exercisable on, above or below the Premises during the Term of the Agreement nor shall they be transferred to any adjacent parcel and exercised in a manner that would interfere with the preservation and conservation purposes of this Agreement; provided, however, that nothing contained in this Subsection 31(d) shall limit Grantor's right to perform any and all of the Building restoration and construction work as provided for in the Redevelopment Agreement and as described in the Design Plans and Working Drawings and Specifications.

(e) For purposes of furthering the preservation of the Protected Elements and the Building and of furthering the other purposes of this instrument, and to meet changing conditions, Grantor and Grantee are free to amend jointly the terms of this instrument in writing; provided, however, that no such amendment (except as provided in Section 21 above) shall limit the perpetual duration or interfere with the preservation and conservation purposes of the donation. Such amendment shall become effective upon the execution thereof by Grantor and Grantee.

(f) The terms and conditions of this Agreement shall be referenced in any voluntary transfer of the Premises by the Grantor.

(g) This instrument reflects the entire agreement of Grantor and Grantee. Any prior or simultaneous correspondence, understandings, agreements, and representations are null and void upon execution hereof, unless set out in this instrument.

98616613

1997-1998

(h) The captions contained herein are for convenience only and shall not be deemed to be a part of this instrument.

(i) Grantor and the persons executing this instrument on behalf of Grantor represent and warrant that Grantor is the owner in fee simple of the Premises, that Grantor and the persons executing on behalf of Grantor are fully authorized and empowered to execute and deliver this instrument, and there is no lien, encumbrance, contract, or governmental restriction that prohibits the execution and delivery of this instrument and the performance by Grantor of all of Grantor's obligations hereunder.

(j) This Agreement shall be effective as of the date first above written.

(k) In the event Grantee claims any lien against the Premises arising out of this Agreement, Grantee shall provide written notice of such claim, and if recorded a copy of such lien as recorded, to each of the Mortgagees.

318616613

11/11/11

Agreement dated as of May _____, 1998 ("LLC Agreement"), a copy of which has been delivered to the DPD. As further described in the LLC Agreement, Canal Hotel Partners, L.P. and Reliance Investors, L.P. shall each have a forty-seven percent (47%) ownership interest in Developer, and Granite Development, L.L.C. shall have a six percent (6%) ownership interest. The Entities agree that the LLC Agreement, insomuch as it affects the performance of Developer or any Entity pursuant to the terms of this Agreement, shall not be modified or amended without the express written consent of the DPD.

- (b) No litigation or proceedings are pending or, to the best of Developer's knowledge, are threatened against Developer, any Entity or any Affiliate of Developer which could: (i) affect the ability of Developer or any Entity to perform its obligations pursuant to and as contemplated by the terms and provisions of the Agreement, the Redevelopment Documents and the Related Agreements; or (ii) materially affect the operation or financial condition of Developer or any Entity.
- (c) The execution, delivery and performance by Developer of the Agreement have not constituted or will not, upon the giving of notice or lapse of time, or both, constitute a breach or default under any other agreement to which Developer, any Entity or any Affiliate of Developer is a party or may be bound or affected, or a violation of any

98616613

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

CITY OF CHICAGO,
a municipal corporation

CANAL STREET HOTEL, L.L.C.,
a Delaware limited liability
company

By: _____
Richard M. Daley
Mayor

By: CANAL HOTEL PARTNERS, L.P.,
an Illinois limited
partnership

Attest: _____
James J. Laski
City Clerk

By: _____
Daniel T. McCaffery
general partner

By: RELIANCE INVESTORS, LTD,
a Florida limited partnership

By: MANSUR EQUITIES, LTD,
a Florida corporation,
the general partner

By: _____
E. Barry Mansur
President

By: _____
Erik Moskowitz
Executive Vice President

By: GRANITE DEVELOPMENT, L.L.C.,
an Illinois limited liability
company

By: _____
Joseph A. Williams,
a member

By: _____
Larry Huggins,
a member

98616613

00000000

EXHIBIT A

**THE NORTH 1/4 AND THE NORTH 10 FEET OF THE SOUTH 3/4 OF
LOT 1 IN BLOCK 58 IN THE ORIGINAL TOWN OF CHICAGO IN THE
SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,
ILLINOIS.**

**Commonly known as: 32-36 North State Street,
Chicago, Illinois**

PIN: 17-09-463-004-0000

98616613

1950

EXHIBIT B

THE RELIANCE BUILDING Protected Elements under the Preservation and Conservation Easement Agreement

Review of Protected Elements:

Following completion of the Restoration Work in accordance with the Redevelopment Agreement, all alterations or changes to the Building shall be done in accordance with the Preservation and Conservation Easement Agreement (the "Agreement"). The Protected Elements shall be restored and preserved in accordance with this exhibit, the Landmarks Ordinance, the Standards, and the Historic Structures Report. All defined terms, unless defined herein, shall have the meanings ascribed to them in the Agreement.

In addition, Exhibit P of the Redevelopment Agreement (also attached hereto as Exhibit B-1) shall be used as a guide for the review of alterations and changes to the Protected Elements under the easement Agreement, provided that Grantee may deviate from Exhibit P as long as such alterations and changes are in accordance with the Standards.

Phase II Historic Improvements:

For the purposes of the Agreement, the Phase II Historic Improvements and related architectural features to be preserved as Protected Elements in accordance with the Agreement are:

- all exterior elevations and the roof, including but not limited to the restored white-glazed terra cotta cladding covering the spandrel beams, columns and window mullions on the State and Washington street elevations; the common and glazed brick on the south and west elevations, including the lightwell; the three bays of restored original wood windows on the eighth floor on the Washington Street elevation, and the replacement windows on the upper floors of the State and Washington street elevations, consisting of double-hung wood windows (inoperable, fixed sash) to be modified in accordance with Exhibit P, large fixed windows (part of a "Chicago-style" window configuration), and awning-type wood windows on the attic story; the reconstructed ornamental projecting cornice; and the roof, including two skylights and mechanical appurtenances to be modified in accordance with Exhibit P.
- the original floor-to-ceiling heights behind all upper-story windows are also hereby identified as Protected Elements solely to ensure that any future changes to the these features do not adversely affect the appearance and transparency of the windows or views of the building.

98616613

00000000

The Phase II Historic Improvements shall be preserved and maintained in their restored state as documented by the attached written descriptions and illustrative photographs, attached hereto as Exhibit B-2.

Phase III Historic Improvements:

For the purposes of the Agreement, the Phase III Historic Improvements and related architectural features to be restored and preserved as Protected Elements in accordance with the Agreement are:

- the **ground-floor exterior**, including the columns and spandrels, storefronts, and the State Street entrance, all to be reconstructed in accordance with Exhibit P.
- the **ground-floor interior**, including the original State Street entrance and elevator lobby, to be reconstructed in accordance with Exhibit P; the non-historic mezzanine, to be partially removed in accordance with Exhibit P; and the remaining non-historic ground-floor spaces. The non-historic ground-floor spaces and mezzanine are identified as Protected Elements solely and only to ensure that any future changes to these spaces maintain the original, unobstructed, floor-to-ceiling height of the ground floor, consistent with the building's original design emphasizing the transparency of the base of the building and the extensive expanses of glass.
- the **historic upper-story elevator lobbies and corridors on floors 7 thru 14**, the areas specifically identified for restoration on the Concept Plans, attached to the Redevelopment Agreement as Exhibit ___ (also attached hereto as Exhibit B-3), and to be restored in accordance with Exhibit P. The new fire-rated walls to be constructed immediately behind the historic corridor walls, doors, and windows are also hereby identified as Protected Elements solely and only to ensure that any future changes to these new walls do not adversely affect the appearance or the integrity of the historic corridor walls.
- the **open cast-iron ornamental stair on floors 7 thru the attic story**, including the stair itself, the stairwell enclosure, and the **glass ceiling and skylight** at the top of the stairs, all to be restored in accordance with Exhibit P.
- the **interior surface of all exterior walls on floors 8 thru 11, 13 and 14**, including window casings, baseboards, ceiling moldings and other trimwork, all to be preserved in accordance with Exhibit P.

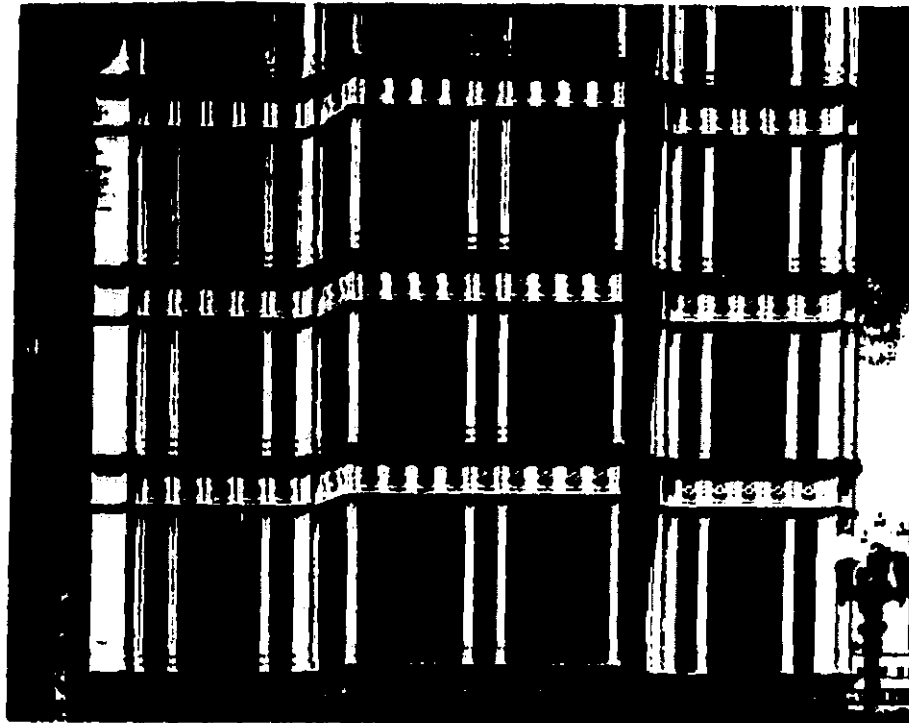
The Phase III Historic Improvements shall be preserved and maintained in their restored state as documented by the written descriptions and illustrative photographs in the Amendment as identified in the Agreement, to be prepared after the completion of the Restoration Work in accordance with the Redevelopment Agreement.

1100000

B-2.13
EXHIBIT

to
PRESERVATION AND CONSERVATION EASEMENT AGREEMENT
from
CANAL STREET HOTEL, L. L. C.
to
THE CITY OF CHICAGO

Existing Conditions, June 1998



Spandrel panel, East (State Street) facade:

The spandrel on the projecting bay uses seven quatrefoil panels separated by mullions with florets.

The spandrel on the angled window portion of the projecting bay uses a quatrefoil panel centered between two diamond panels. Thin, undecorated mullions separate the panels in the angled window feature on each floor of the bay windows. Completing the spandrel panel at the extreme right and left are thin, terra-cotta mullions with five florets.

A plain, undecorated pier, completes the left edge of the building there.

The Reliance Building
32-36 North State Street
Chicago, Illinois
Built 1890, 1894-5

98616613

GENERAL

11-11-11

EXHIBIT O

Intentionally Omitted

98616613

1921

EXHIBIT P

THE RELIANCE BUILDING Restoration Work Required by the Redevelopment Agreement

General:

All work will be done in accordance with the terms and conditions of the Redevelopment Agreement (the "Agreement") and the following:

- the City of Chicago's building permit review procedures and the Landmarks Ordinance, and subject to the review and approval of the Commission on Chicago Landmarks per the Agreement.
- *The Secretary of the Interior's Standards for Rehabilitation of Historic Buildings (rev. 1990) and the Guidelines for Alterations to Historic Buildings and New Construction, adopted by the Commission on Chicago Landmarks on March 4, 1992.*
- the research and recommendations of the Historic Structures Report (dated July 11, 1994) prepared by McClier for the Reliance Building.
- the documents and correspondence submitted by the developer to the City of Chicago for the redevelopment of the building; and the documents and correspondence submitted for pre-permit review by the Commission on Chicago Landmarks on February 4, 1998.

Exterior Work Required:

- **Ground floor and Storefronts.** An historically-accurate reconstruction of the original 1895 design for the ground floor entrance and storefronts, including polished Scotch granite veneer, or visually equivalent granite that reproduces the historic material in appearance, color and texture; decorative bronze trim and grillework or visual equivalent that reproduces the historic material in appearance, color, texture, profile, and durability; entry doors and transoms, granite spandrel panel over lobby entrance with bronze "RELIANCE" letters, and large expanses of glass as originally constructed. The State Street ground floor elevation shall be as exact a reconstruction as possible, while the Washington Street elevation may be modified to accommodate an additional building entrance and required emergency exit doors, subject to review and approval. Such reconstruction of storefronts shall be based on available historical documentation with acceptable modifications as noted above and on the Concept Plans as defined in the Agreement.

98616613

1970

- **Upper-Story Windows.** The remaining original windows on the eighth floor of the Washington Street side of the building shall be retained and restored, as necessary. All other windows may be replaced, provided the new windows match the original, historic windows in terms of design, profile, dimensions, material (for example, wood shall replace wood), and appearance. It is understood that certain windows which are now in a fixed, double-hung configuration may be replaced with windows with operable sashes to meet applicable code requirements.
- **Signs.** Any proposed exterior signs shall be compatible with the architectural design and historic character of the building in terms of design and location. All exterior signs shall be subject to review and approval. Exterior and interior signs shall not obscure or damage any architectural features or materials, however this requirement shall not prohibit the installation of signs on historic materials. No exterior signs shall be located above the ground floor. No internally illuminated, face-lit signs shall be permitted.
- **Canopies and Awnings.** No fixed or permanent canopies shall be allowed on the State Street Facade, but a fixed, permanent or retractable canopy may be permitted at the Washington Street entrance, subject to review and approval. Storefront windows on State Street may have a canvas awning, based on historic precedent and design. No awnings shall be allowed on the upper-story windows, over the main (lobby) entrance on State Street or over the Washington Street storefront windows.
- **Rooftop and Skylights.** Rooftop additions and appurtenances, whether new or enlargements of existing conditions, may be permitted, subject to review and approval. All permitted rooftop additions and appurtenances shall be setback from the street elevations to the greatest extent possible to minimize potential visibility from the street and shall meet the specific functional requirements of the elements they serve, eg. elevator overruns and mechanical penthouse equipment. No new habitable additions shall be constructed on the roof. The original skylight over the open ornamental staircase shall be retained and repaired, but may be modified to accommodate any required smoke exhaust equipment or system to the extent necessary and subject to review and approval. The skylight over the elevator penthouse may be removed.
- **Building Lighting.** Appropriately-designed accent lighting shall be provided for the attic-story windows, such that the illumination provided will emit a glow through the existing windows, in the spirit of the City's Loop Lighting Plan. Consistent with the original design of the building, ground floor interior lighting should emphasize the transparency of the building's base and the extensive expanses of glass.

98616613

Interior Work Required:

- **State Street Entrance and Elevator Lobby.** An historically-accurate reconstruction of the original 1895 design for the State Street entrance and elevator lobby, including the original approximately 21-foot-high floor-to-ceiling height, open ornamental stair and

11/11/11

11/11/11

mid-level landing that reproduces the historic cast-iron material, marble mosaic floor, multi-colored polished marble walls, ornamental elevator grillework that reproduces historic Bower-Barff finish, metal trim-work, metal beamed ceiling with framed marble panel insets, and period reproduction light fixtures. Modifications, such as enclosing the elevator shafts, shall be allowed to address required code issues, subject to review and approval. Such reconstruction of the State Street entrance and interior lobby shall be based on archival documentation, submitted to Commission staff.

- **Historic Upper-Story Elevator Lobbies and Corridors (Floors 7 through 14).** The elevator lobbies and corridors shall be restored, in the areas specifically identified as "Restored Historic Corridor" on each floor in accordance with the Concept Plans attached as Exhibit ___ of the Agreement.

All existing original features and materials within the restored area shall be retained and restored. The elements to be retained include: the terrazzo floor with marble thresholds and borders, the corridor partitions, including Cararra marble wainscot and varnished mahogany trim-work, doors, windows, and transoms; Cararra marble ceilings (at elevator lobby); plaster finishes and ceilings (at corridors), including original paint colors, and light fixtures. The design treatment of the non-historic portions of these corridors may follow alternative, appropriate design parameters not noted above. However if the design of the non-historic portions of these corridors is based on the historic design, it shall not replicate the original, historic design, but should be differentiated and compatible.

It is understood that modifications, such as enclosing the elevator shafts and constructing a new fire-rated wall behind the restored corridor partition, shall be allowed to address code required issues, subject to review and approval. Original doors and historic hardware, to the extent that such elements are existing and repairable, shall be reused, subject to modifications where necessary to meet code requirements. Interior furnishings and signage within the restored areas shall not damage any architectural features or materials. The location of any carpeting shall be consistent with the Concept Plans and installed as a "runner" down the corridors, so that a portion of the floor remains visible along the walls. Existing glass panes in the windows, doors and transoms may be replaced and/or modified such as with an applied coating, subject to review and approval.

- **Non-historic Corridors Elevator Lobbies and Corridors (Floors 2 thru 6).** The design treatment of the non-historic corridors may follow alternative, appropriate design parameters. However if the design of the non-historic corridors is based on the historic design, it shall not replicate the original, historic design, but should be differentiated and compatible.
- **Open Cast-Iron Ornamental Stair and Glass Ceiling.** The ornamental stair on floors 7 thru the attic story shall be retained and restored. The glass ceiling at the top of the stairs (below the skylight) shall be retained and restored, but may be modified to accommodate any required smoke exhaust or mechanical equipment, subject to review and approval. Any enclosure of the stair determined to be non-historic may be removed and the original

98616613

020120Z

1000

open configuration and ornamental grillework may be restored.

- **Mezzanine.** The mezzanine shall be removed, except for the western-most two bays as indicated on the Concept Plans. Original ceiling heights shall be restored throughout the ground floor. The connection between the remaining portions of the mezzanine and the reconstructed storefront along Washington Street shall be subject to review and approval.
- **Elevator Grillework.** All ornamental elevator grillework (with Bower-Barff finish) on floors 4 thru 14 shall be retained, restored and reused on new elevator enclosures to the extent that these elements are existing and repairable. Decisions on whether a feature or material cannot be reasonably repaired shall be mutual and subject to review and approval. It is understood that modifications, such as enclosing the elevator shafts, shall be allowed to address code required issues, subject to review and approval.
- **Window and Wall Trim.** Remaining original window casings, baseboards, ceiling molding and other trim-work located on the interior face of the exterior wall shall be retained and repaired to the extent practical, subject to review and approval. New window casings, baseboards, ceiling molding and other trim-work located on the interior face of the exterior wall shall match the original in design, material, profile and color but need not be mahogany. New baseboards, ceiling moldings, chair rails and other new trim-work, located on new interior walls, shall be differentiated from the historic design. The restored window casings on the eighth floor shall be retained and preserved.
- **Window Treatments and Ceiling Heights.** Window treatments (curtains, shades, etc.) shall be subject to review and approval. To the extent compatible with the interior design and functional requirements for the hotel rooms, the original upper-story window treatments combining pull-down shades and curtains are strongly encouraged but not required. As proposed, original ceiling heights shall be maintained behind the windows; and drops in the height of the ceiling for mechanical equipment, etc., shall be as generally depicted on the Concept Plans.

98616613

REPORTS

law or court order which may affect the Property, any part thereof, any interest therein or the use thereof.

- (d) The parties executing the Agreement and the Related Agreements on behalf of Developer and any Entity have been duly authorized by all appropriate action to enter into, execute and deliver the Agreement and the Related Agreements and perform the terms and obligations contained therein.
- (e) To the best of its knowledge, the intended use of the Property by Developer does not and shall not violate: (i) any statute, law, regulation, rule, ordinance or executive or judicial order of any kind (including, without limitation, zoning and building laws, ordinances, codes or approvals and environmental protection laws or regulations); or (ii) any building permit, restriction of record or any agreement affecting the Property or any part thereof.
- (f) Except as otherwise provided in the Agreement, and specifically as described in subsection 4.14 below, prior to the issuance of the Certificate, Developer shall not, without the prior written consent of the DPD, which the DPD may withhold in its reasonable discretion: (i) be a party to any merger, liquidation or consolidation; (ii) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property; (iii) grant, suffer or permit any lien, claim

98616613

SECRET

or encumbrance upon the Property or any portion thereof; (iv) permit or suffer any levy, attachment, claim or restraint to be made affecting the Property or any portion thereof; or (v) enter into any transaction not in the ordinary course of business of Developer or any Entity, which materially or adversely affects Developer's ability to pay its debts as such may then exist or mature.

- (g) Developer shall utilize the Project solely for those uses permitted by the terms of the Agreement, the Redevelopment Documents and the Related Agreements.
- (h) Developer shall comply with the terms of: (1) the Affidavits; (2) the Employment Opportunity Obligations described in Section VI of the Agreement; (3) the Public Policy Covenants described in subsection 7.1 below; (4) the Covenant of Performance; (5) the Public Benefits Agreement; (6) the Preservation Easement; and (7) the job creation, retention and other requirements described in subsection 7.3 below.
- (i) During the construction of the Project, Developer shall not disturb and take due diligence to preserve the facades of the Building and, in accordance with the terms of the Agreement, restore and rehabilitate those certain improvements in the exterior and the interior of the Building (as further described in Exhibit P) as needed to complete the Project and to preserve the historic and

98616613

1001003

architecturally significant features of the Building in accordance with the Landmarks Ordinance and the Preservation Easement, and in accordance with the Working Drawings and Specifications (as defined in subsection 4.4 below) approved by the DPD and the Landmarks Commission.

- (j) Developer shall use the Property and the Building as a first class boutique hotel with ancillary first class restaurant facilities.

2.2 Representations and Warranties of the City.

To induce Developer to execute the Agreement and perform the obligations of Developer hereunder, the City hereby represents and warrants to Developer that the City has authority under its home rule powers granted in the Constitution of the State of Illinois to enter into, execute, deliver and accept, as the case may be, the Agreement and Related Agreements, and to perform any and all of its obligations thereunder.

2.3 Survival of Representations and Warranties.

Developer agrees that all of its representations and warranties, and the City agrees that all of its representations and warranties, set forth in this Section II or elsewhere in the Agreement are true as of the execution date of the Agreement and will be true at all times hereafter during the Term of the Agreement, except with respect to matters which have been disclosed in writing to and approved by the other party.

98616613

1901

SECTION V	
PERFORMANCE	60
5.1 Time of the Essence.	60
5.2 Permitted Delays.	60
5.3 Breach.	60
5.4 Waiver and Estoppel.	69
5.5 Indemnity.	69
5.6 Access to the Property.	70
5.7 City's Right to Inspect Records.	70
SECTION VI	
DEVELOPER'S EMPLOYMENT OPPORTUNITY OBLIGATION	71
6.1 Employment Opportunity.	71
6.2 City Resident Employment Requirement.	72
6.3 Developer's MBE/WBE Commitment.	76
6.4 Pre-Construction Meeting; Monitoring Requirements.	78
SECTION VII	
PUBLIC POLICY COVENANTS AND POST-CERTIFICATE REQUIREMENTS	79
7.1 Developer's Public Policy Covenants.	79
7.2 Use and Performance Requirements.	80
7.3 Employment Creation and Retention.	80
7.4 Public Benefits Program.	80
7.5 Status Reports.	81
7.6 Real Estate Taxes and Other Governmental Charges.	81
7.7 Covenants Running with the Land.	83
SECTION VIII	
MISCELLANEOUS PROVISIONS	84
8.1 Entire Agreement.	84
8.2 Assignability and Transfer.	85
8.3 Conflict of Interest - City's Representatives Not Individually Liable.	85
8.4 Disclosure.	85
8.5 Survival.	86
8.6 Mutual Assistance.	86
8.7 Cumulative Remedies.	86
8.8 No Merger with Deed.	86
8.9 Disclaimer.	86
8.10 Notices.	87
8.11 Headings.	88
8.12 Governing Law.	88
8.13 Recordation of the Agreement.	88
8.14 Release.	
8.15 No Third Party Beneficiary.	88
8.16 Approval.	89
8.17 Business Economic Support Act	
8.18 Successors and Assigns.	89
8.19 Severability.	89
8.20 Counterparts.	90

98616613

SECTION III

CONVEYANCE OF THE PROPERTY

3.1 Form of Deed. The City shall convey to Developer fee simple title to the Property by quitclaim deed substantially in the form attached hereto as Exhibit B ("Deed"). The conveyance and title shall, in addition to the provisions of the Agreement, be subject to:

1. Covenants and restrictions set forth in the Deed.
2. The Redevelopment Documents affecting the Property for the Term of the Agreement.
3. The Preservation Easement.
4. The permitted exceptions described in Exhibit C attached hereto as disclosed by an ALTA owner's title insurance commitment or policy.
5. Taxes for the current year not then due and owing.
6. Title objections caused by Developer.

In addition, the Property shall be conveyed to Developer "AS IS" and "WHERE IS", and with no warranty, express or implied, by the City as to the condition of the soil, its geology, or the presence of known or unknown faults, or to the physical and environmental condition of any improvements located thereon. It shall be the sole responsibility of Developer to investigate and determine the soil and environmental condition of the Property and the Building. If the soil and environmental conditions of the Property and the Building are not in all respects entirely suitable for the use or uses to which the Property and the Building are to

98616613

be utilized in conjunction with the Project, then it shall be the sole responsibility and obligation of Developer to take such action as may be necessary to place the soil and environmental condition of the Property and the Building in a condition entirely suitable for the intended Project.

3.2 Conveyance of the Property. Subject to all the terms, covenants and conditions of the Agreement, the City shall convey to Developer the Deed to the Property subject to the occurrence of all of the following in accordance with the applicable provisions of the Agreement:

- (a) approval by the DPD and the Landmarks Commission of Developer's Schematics and Design Plans (as defined in subsection 4.4(a) below; and
- (b) approval by the DPD of the Schedule for the Project, as more fully described in subsection 4.6(a) below; and
- (c) approval by the DPD of Developer's Budget as defined in subsection 4.7(a) below and the deposit of Developer's Equity and satisfactory demonstration by Developer to the City of the availability of Developer's Financial Contribution for deposit in the Escrow as described in subsections 4.7(a) and (c) below; and
- (d) receipt by the DPD of the Completion Guaranty from Daniel T. McCaffery, substantially in the form attached hereto as Exhibit M; and
- (e) approval by the DPD of the Loan Agreement, if any, as more fully described in subsection 4.8(a)(1) below in

1000000000

furtherance of satisfying Developer's Financial Contribution; and

- (f) execution and delivery of the Preservation Easement by the City and Developer; and
- (g) the obtaining by Developer of insurance policies insuring the Property as more fully described in subsection 4.13 below.

The closing shall occur at the Title Company on a date mutually selected by the parties; provided, however, if the conditions described in this subsection 3.2 (a) - (g) are not achieved by Developer within six (6) months of the execution date of the Agreement (except in the instance of any Permitted Delay as described in subsection 5.2 below), then the Agreement, at the option of the City, shall become null and void and the City shall be under no further obligation to Developer.

3.3 Closing Documents. At the closing for the Property, the parties shall deliver to each other the following:

- (i) Developer's documents:
 - (a) A certificate of good standing and a certificate of incumbency from Developer and each Entity.
 - (b) An ALTA statement.
 - (c) All documents required to be delivered under subsection 3.2 above.
- (ii) The City's documents:
 - (a) The Deed.
 - (b) A Bill of Sale, if applicable.

1111344

(c) A certified copy of the ordinance adopted by the City Council of the City authorizing the City to enter into and perform the Agreement and to execute the Agreement and all other documents necessary to carry out the transactions provided for in the Agreement.

(d) An ALTA statement.

3.4 Title Insurance and Survey. In connection with the conveyance of the Property by the City to Developer, the City, at Developer's sole expense, shall provide to Developer (i) a policy of title insurance from the Chicago Title Insurance Company or other title company mutually agreeable to the parties ("Title Company"), consisting of an Owner's Policy ALTA form B (1987), dated as of the date of recording with the Recorder's Office of the Deed conveying the Property to Developer, insuring the title of Developer with regard to the Property, subject only to the reservations and exceptions provided in this Section III, and (ii) a survey of the Property meeting joint ALTA/ASCM requirements certified to the Title Company, Developer and the City and containing a flood plain certification. Developer, at Developer's sole expense, may obtain such endorsements as it may require. The City agrees to use reasonable efforts to assist Developer in the obtaining of said endorsements.

3.5 Real Estate Taxes. Developer shall be responsible for real estate taxes accruing after the conveyance of said Deed.

98616613

1921

3.6 Recordation of Deed. Developer shall promptly file the Deed for recordation with the Recorder's Office. Developer shall bear all such recording costs as Developer's sole expense.

SECTION IV

THE CONSTRUCTION OF THE PROJECT

4.1 The Project. Developer shall undertake to develop the Building for use as a first class boutique hotel with ancillary restaurant facilities that will be complementary to the operation of a first class hotel. The Project shall include the restoration and rehabilitation of the exterior and the interior of the Building for its intended uses as described in this subsection 4.1. In particular, Developer shall restore and rehabilitate the historic and architecturally significant features of the Building in accordance with Exhibit P of the Agreement, the Preservation Easement and the Landmarks Ordinance. The restoration, renovation and rehabilitation work constituting the Project shall be undertaken by Developer in accordance with the Working Drawings and Specifications approved by the DPD and the Landmarks Commission in accordance with the procedures described in subsection 4.4 below. During the construction of the Project, Developer shall take care to not disturb and to preserve the restored exterior facades of the Building.

The restriction on use provisions described in this subsection 4.1 shall be contained in the Deed and, subject to the provisions contained in subsections 5.3(d) and (e) below, shall be considered

18616613

1000000000

1000000000

to be a covenant running with the land during the Term of the Agreement to the full extent allowable under Illinois law.

4.2 The Project's Development Parameters. The Project shall be constructed substantially in accordance with the Working Drawings and Specifications (as defined in subsection 4.4 below), and shall be subject to the following development parameters:

- (a) Developer's Schematics, a reduced copy of which is attached hereto as Exhibit D, setting forth the intended scope of the Project, and a narrative description of the Project, have been approved by the DPD.
- (b) The facades of the Building and the historic features of the interior of the Building shall be preserved by Developer in accordance with the terms of the Agreement, the Preservation Easement, the Landmarks Ordinance and Exhibit P attached hereto.
- (c) Any exterior awnings and signage utilized by Developer located at the Project shall meet the prior written approval of the DPD, in accordance with Exhibit P.
- (d) Loading access to the Project shall occur solely via an elevator accessible on the sidewalk on Washington Street. Use of the elevator shall be restricted during the hours of 10:00 a.m. until 6:00 p.m., except in the case of an emergency.
- (e) Any streetscaping, including any paving of sidewalks, landscaping and lighting, provided by Developer as part of the Project shall meet the prior written approval of

1951

the DPD and be attractive and compatible with the streetscaping of Block 58.

4.3 Right of Entry. The City has granted to Developer a right of entry to the Building and the Property for the purpose of allowing Developer's architects and engineers to inspect the Building. In conjunction with the right of entry agreement, Developer has provided to the City such insurance protection in connection therewith as deemed appropriate by the City's Risk Manager and agrees to indemnify and hold harmless the City regarding any such activities undertaken by Developer at the Building.

4.4 Submission of Construction Documents; Environmental Review.

(a) Design Plans. Developer's preliminary schematic drawings ("Schematics"), describing the proposed restoration and rehabilitation of the Building and the development of the other Project improvements to be constructed at the Property, have been approved by the Landmarks Commission, the Illinois State Historic Preservation Officer ("SHPO") and the DPD, and reduced copies of which are attached hereto as Exhibit D. Within sixty (60) days of the execution of the Agreement, Developer shall prepare and submit to the Landmarks Commission, the SHPO and the DPD for their respective approval proposed design development plans for the Project based upon and consistent with the Schematics. The design development plans shall also conform to the terms of the Agreement, the Redevelopment Documents, as amended from time to time, the

98616613

1941

Landmarks Ordinance and the Preservation Easement (when applicable), and all applicable state and local laws, ordinances and regulations. The Landmarks Commission and the DPD shall have fifteen (15) days in which to approve or reject the design development plans. If the Landmarks Commission or the DPD, or both, reject the design development plans, the Landmarks Commission or the DPD, as the case may be, shall deliver written notice of such to Developer. Developer shall thereafter have fifteen (15) days in order to revise them consistent with the requirements of the Landmarks Commission or the DPD, as the case may be, and resubmit them to the Landmarks Commission and the DPD for approval. The City shall thereafter have ten (10) days upon receipt from which to review or reject the resubmitted documents.

Developer's final design development drawings and specifications which have been approved by the DPD and the Landmarks Commission, as applicable, shall be considered the "Design Plans" for purposes of the Agreement.

Any material change to the Design Plans must be submitted to the Landmarks Commission, the SHPO and the DPD for their approval, which approval by the DPD shall not be unreasonably withheld or delayed.

(b) Development of Working Drawings and Specifications

Within sixty (60) days following receipt of approval by the DPD and the Landmarks Commission of the Design Plans, Developer shall submit to the DPD, the SHPO and the Landmarks Commission for its respective approval the proposed final construction documents

11111111

regarding the development of the Project. The DPD and the Landmarks Commission shall have thirty (30) days in which to approve or reject the construction documents. If the Landmarks Commission or the DPD, or both, reject the construction documents, the Landmarks Commission or the DPD, as the case may be, shall deliver written notice of such to Developer. Developer shall thereafter have fifteen (15) days in order to revise them consistent with the requirements of the Landmarks Commission or the DPD, as the case may be, and resubmit them to the Landmarks Commission and the DPD for approval. The City shall thereafter have ten (10) days upon receipt from which to review or reject the resubmitted documents.

Developer's final design development drawings and specifications which have been approved by the DPD, the SHPO and the Landmarks Commission, as applicable, shall be considered the "Working Drawings and Specifications" for purposes of the Agreement.

Any material change to any of the Working Drawings and Specifications must be submitted to the DPD for its approval, which approval shall not be unreasonably withheld or delayed.

(c) Environmental Review. Developer has provided the DPD with a copy of that certain "Phase I Environmental Site Assessment Report" conducted by Hygienetics Environmental dated as of November 7, 1997 concerning the Building and the Property. Based on the City's review thereof, the City may, in its sole discretion, require the completion of a Phase II environmental audit with

1977

respect to the Building and the Property prior to the commencement of construction. If any such audit discloses Hazardous Materials at the Building and the Property, then it shall be Developer's sole responsibility to undertake such environmental remediation or corrective work as necessary to place the environmental condition of the Building and the Property in a condition entirely suitable for the intended Project and in compliance with Environmental Laws.

4.5 Limited Applicability of DPD's Approval. Any approvals of the Schematics, Design Plans and the Working Drawings and Specifications made by the DPD are for the purposes of the Agreement only and do not affect or constitute approvals required for building permits or approvals required pursuant to any other ordinance of the City, nor does any approval by the DPD pursuant to the Agreement constitute approval of the quality, structural soundness or the safety of the improvements constituting the Project. The City, however, agrees to assist Developer in expeditiously obtaining approvals for building permits affecting the Project. Developer agrees to notify the DPD within five (5) days of the issuance of any building permit by the City's Department of Buildings.

4.6 Construction Schedule; Hiring of General Contractor; Performance Bond; Purchase of Materials.

(a) **Developer's Construction Schedule.** Developer's preliminary schedule ("Schedule") for the commencement and completion of the work constituting the Project has been approved by the DPD and is attached hereto as Exhibit L. In conjunction and

11/10/1941

98616613

BLOCK 58, CENTRAL LOOP PROJECT
REDEVELOPMENT AGREEMENT
RELIANCE BUILDING

This Redevelopment Agreement ("Agreement"), dated as of July 14, 1998, is made by and between the City of Chicago, an Illinois municipal corporation, having its offices at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 ("City") and Canal Street Hotel, L.L.C., a Delaware limited liability company, having its principal office c/o CCR McCaffery Developments at 737 North Michigan Avenue, Suite 2050, Chicago, Illinois 60611 ("Developer").

RECITALS

A. The City, as a home rule unit under the 1970 Constitution of the State of Illinois, has the authority to promote the health, safety and welfare of its inhabitants, to prevent the spread of blight and to encourage private development in order to enhance the local tax base and create employment, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes.

B. In furtherance of its objectives to encourage the redevelopment and revitalization of blighted commercial areas, the City established the Commercial District Development Commission, which has been succeeded in interest by the Community Development Commission ("Commission").

98616613

with respect to the production by Developer of the Design Plans (as described in subsection 4.4 above), Developer shall prepare and submit to the DPD for its approval a revised Schedule describing in more accurate detail from the preliminary Schedule a timetable for the commencement and completion of the Project. The Schedule shall be subsequently revised by Developer and submitted to the DPD on a quarterly basis during the construction of the Project.

(b) Hiring of General Contractor. Developer has notified the City that, prior to the execution of the Agreement, it has selected a General Contractor to undertake the construction of the Project. In the event that an alternative General Contractor is selected by Developer, Developer shall solicit bids from at least three (3) qualified contractors from a list of contractors previously submitted by Developer and approved by the DPD. The DPD shall evaluate the prospective bids within seven (7) days of their submission by Developer. Developer shall seek to hire the General Contractor at the lowest cost practicable in light of the objectives for the construction of the Project as expressed in the Agreement. The terms and conditions of the construction contract between Developer and the General Contractor ("Construction Contract") shall be subject to the approval of the DPD.

With regard to the hiring of subcontractors ("Subcontractor") by the General Contractor, the General Contractor shall solicit bids from at least three (3) qualified subcontractors to undertake the pertinent work. The subcontractors shall be

selected from a list of subcontractors submitted by Developer and approved by the DPD.

All solicitations of bids by Developer or the General Contractor shall require that the General Contractor and all Subcontractors comply with: (i) the Equal Employment Opportunity provisions described in subsection 6.1 below; (ii) the Chicago Resident Employment Ordinance provisions described in subsection 6.2 below; (iii) the Veteran Preference Act, 330 ILCS 55/11 et seq. (1993); (iv) the terms and provisions of the Chicago Human Rights Ordinance, Section 2-160-010 et seq., Municipal Code of Chicago; and (v) the Prevailing Wage Act of Illinois, 820 ILCS 130/1 et seq. (1993).

True, correct and complete copies of the Construction Contract, and all executed subcontracts entered into by the General Contractor with its subcontractors ("Subcontracts") shall be delivered to the DPD. The Construction Contract and each Subcontract must contain provisions: (i) regarding compliance with the laws and regulations described in this subsection and in the Agreement; (ii) naming the City as a third party beneficiary and an assignee; and (iii) obligating the General Contractor or any Subcontractor to furnish such reports and information as requested by the Chicago Commission on Human Relations to determine compliance with the Chicago Human Rights Ordinance.

Except as provided below, any modifications, change orders or amendments to the Construction Contract or any Subcontract shall be described in a written report provided by Developer to the City on

0000000000

a monthly basis in conjunction with a Request for Advance (as defined in subsection 4.7(c)) pursuant to the Escrow. The monthly report shall describe any resulting increase in costs (real or estimated) on a line item basis resulting from such change order, modification or amendment. The scope of review and approval of said modifications, change orders, or amendments by the DPD shall be based solely on how they affect: (i) the amounts available as contingency in the Budget; (ii) any transfers between line items of the Budget; (iii) an analysis of the overall Budget for the Project and the amount of undisbursed financial resources available to complete the Project in accordance with the Agreement; and (iv) a material change in scope from the approved Working Drawings and Specifications. In the event that the City, in its reasonable discretion, believes that the amount of remaining contingency is insufficient, given the uncompleted portion of the Project as of the date of the written report, or that the amount of funds available to Developer to complete the Project is insufficient, then Developer, within ten (10) days of written notice, shall be required by the City to deposit such required sums in the Escrow or otherwise to identify to the City other funds to be made available as contingency or otherwise to complete the Project. Notwithstanding the above language, any approved modification, change order or amendment shall not be deemed to imply any obligation on the part of the City to increase the amount of the City's Financial Contribution.

98616613

14000000

(c) Bond. The General Contractor shall be required to deliver to the City a payment and performance bond designating the City as a beneficiary in an amount no less than the amount of construction costs as reflected in the Construction Contract, insuring the undertaking of the construction of the work constituting the Project in accordance with the Working Drawings and Specifications and consistent with the provisions of the Agreement. Said payment and performance bond shall be issued by a reputable company satisfactory to the DPD in its reasonable discretion having an AA rating or better using American Institute of Architect's Form No. 311 or its equivalent.

(d) Purchase of Materials. All materials utilized with regard to the construction and completion of the Project, whether purchased directly by Developer, the General Contractor, or any Subcontractor, shall be new (unless otherwise approved by the City), high quality materials acquired at the lowest practicable cost. Developer intends to use or re-use, when practical, certain materials or historic fabric found at the Building, as reflected on Exhibit P attached hereto and the Preservation Easement.

4.7 Financing the Project.

(a) Budget and Developer's Financial Contribution.

(1) Budget and Developer's Financial Contribution. The preliminary budget for the Project has been approved by the DPD and is attached hereto as Exhibit E. Upon completion of the Design Plans, Developer will submit to the DPD its revised estimated cost ("Budget") of completing the Project. The Budget will thereafter

98616613

be revised and submitted to the DPD by Developer for approval on a quarterly basis to reflect actual costs incurred and anticipated costs to be incurred in completing the Project. The Budget shall also contain a description disclosing in sufficient detail the sources of funds that Developer shall contribute to pay such costs, other than those costs to be paid for utilizing the City's Financial Contribution ("Developer's Financial Contribution").

No later than August 1, 1998 or the execution date of the Escrow by the parties, whichever is earlier, Developer shall deposit with or deliver to the City for subsequent delivery to the Escrowee once the Escrow is created by the parties pursuant to subsection 4.8(c) below, as part of Developer's Financial Contribution, the sum of Two Million Dollars (\$2,000,000) which represents part of Developer's equity ("Equity"), either in the form of cash or a direct-pay letter of credit, the terms of which shall meet the prior approval of the City and the Escrowee. The balance of Equity, in the amount of Two Million Hundred Twenty Five Thousand Dollars (\$2,325,000,000), shall be deposited by Developer in the Escrow on an "as needed" basis, but in any event, no later than December 1, 1998, such date to be extended in the reasonable discretion of the Commissioner to February 1, 1999. The failure of Developer to make either Equity deposit as provided for herein shall be deemed an event of default without notice from the City or an opportunity to cure. The parties understand that Developer's total Equity amount of \$4,325,000 may be offset and reduced for approved prior expenditures based on documentary evidence

98616613

1000000000

11/13/54

11/13/54

satisfactory to the DPD, in its reasonable discretion, that Developer has previously expended monies to satisfy certain Project costs as are reflected in the approved Budget; provided, however, that such offset shall affect Developer's obligation concerning the Equity deposit of \$2,000,000 by August 1, 1998 only to the extent that Developer provides such satisfactory documentary evidence to the DPD no later than July 15, 1998. The DPD reserves the right, in its reasonable discretion, to disallow any such expenditure as a prior expenditure.

Developer shall provide the Developer's Financial Contribution constituting the aforesaid Equity through its own funds or loans to Developer.

With regard to accumulating Developer's Financial Contribution over and above the aforesaid Equity, Developer shall provide satisfactory evidence to the City that it has obtained irrevocably committed funds or financing. Developer shall be permitted to obtain a loan or loans secured by a mortgage ("Lender Financing") from a reputable financial institution or other lender which is in good standing with the State of Illinois, and satisfactory to the DPD in its sole discretion ("Lender"). In connection with any Lender Financing, Developer shall deliver to the DPD evidence of a commitment or commitments for adequate financing (a "Commitment"), specifying the amount of Lender Financing, length of the term and the applicable interest rate. The terms of the Commitment shall be subject to the approval of the DPD for the purpose that it is consistent with the terms and requirements of the Agreement. Once

98616613

1910

the Commitment has been approved by the DPD and executed by the parties, the DPD shall also review and approve the terms of any loan agreement ("Loan Agreement") to be executed by Developer and the Lender, such review by the DPD to be limited to a determination of the consistency of the Loan Agreement with the terms of the Agreement. The existence of an approved, executed Loan Agreement with respect to Lender Financing, which will make Lender Financing available for disbursement conditioned only on normal and customary requirements for disbursement of funds from time to time, shall be a requirement to any obligation of the City to disburse any of the City's Financial Contribution.

The Lender shall be permitted to secure its loan by a mortgage ("First Mortgage"), or, if needed and obtained, a subsequent mortgage that replaces the First Mortgage, encumbering the Property and evidenced by a mortgage note ("First Mortgage Note").

As an alternative, Developer may obtain, in satisfying in whole or in part its obligation to accumulate the Equity component of Developer's Financial Contribution, funds derived from the syndication of historic preservation tax credits. The City makes no representation and gives no undertaking whatsoever regarding the availability of any such tax credits either with respect to the Phase II Improvements heretofore completed or the Project; provided, however, that the City as deemed appropriate by it, agrees to cooperate and assist Developer in any effort on its part to utilize any available historic preservation tax credits to assist in completing the Project. In the event that the historic

98616613

00000000

preservation tax credits are syndicated, the parties agree that any syndication proceeds in excess of \$2,800,000 shall be "shared" between Developer and the City on the basis of 60% to 40%, respectively, said City "share" to be utilized as a reduction in the aggregate amount of the City's Financial Contribution to be provided to Developer.

Notwithstanding the provisions contained in this paragraph or in the Agreement, Developer shall be permitted to obtain a First Mortgage in an amount equal to no less than the total Project costs minus the City's Financial Contribution and Equity, it being the obligation of Developer to fund as part of the Developer's Financial Contribution any excess costs of the Project beyond the City's Financial Contribution (whether through Lender Financing or its own funds or loans to Developer) and Developer shall hold the City harmless with respect thereto.

In such regard, Developer's ability to fulfill its obligation to provide the funds necessary with regard to the undertaking and Completion of the Project (including the obligation and responsibility for obtaining necessary funds covering all Project cost overruns beyond the City's Financial Contribution for certain Redevelopment Project Costs in accordance with the Budget) shall be supported and guaranteed by that certain Completion Guaranty provided by Daniel T. McCaffery in favor of the City. The Completion Guaranty shall be executed by Daniel T. McCaffery in substantial conformity with the form of Guaranty attached hereto as

98616613

100-100000

Exhibit M, and shall be dated as of the execution date of the Agreement and delivered to the City by Developer.

(b) City's Financial Contribution. The City shall make a financial contribution for TIF Funded Improvements to assist Developer with the completion of the Project in the aggregate amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) ("City's Financial Contribution"). The parties agree that the City's Financial Contribution shall in no manner exceed the aggregate amount described hereinabove in this paragraph. The parties further acknowledge that the City has reserved funds for the City's Financial Contribution for TIF Funded Improvements which have been derived from Incremental Taxes allocated to the City or proceeds from the sale of the Bonds, and that any proposed use of the City's Financial Contribution must be in accordance with any laws, regulations and ordinances governing the use of such funds, including, without limitation, the TIF Act.

The TIF Funded Improvements to be paid for by the City or reimbursed to Developer by the City are described more fully on a line item basis in Exhibit F attached hereto. The City's Financial Contribution shall be deposited from time to time by the City in a subaccount of the Escrow as needed to cover the TIF Funded Improvements to be funded therefrom (in such amount as determined on a pro-rata basis in accordance with the Budget) with the Lender Financing proceeds or other Developer private funds or financing after the disbursement in full of all of Developer's Equity (any Budget savings with respect thereto also to be shared pro-rata by

98616613

100-100000

the City and Developer). The pro-rata basis for disbursement shall be established by the ratio of the aggregate amount of the City's Financial Contribution to the amount of Lender Financing as currently projected by Developer as needed to complete the construction of the Project, which is the sum of Thirteen Million Five Hundred Thousand Dollars (\$13,500,000). In making such determination, no portion of the Project costs shall go to pay for unsubstantiated Project costs. Any sums of the City's Financial Contribution not utilized for TIF Funded Improvements shall be returned to or retained by the City.

The City's Financial Contribution is being made conditioned upon the delivery to the City of the Covenant of Performance substantially in the form of Exhibit H attached hereto. As more fully described in the Covenant of Performance, in the event of a breach by Developer of its obligations under the Agreement, including, without limitation, the Use and Performance Covenants provided for in subsection 7.2, Developer may be obligated to repay to the City all or a part of the sum of Three Million Five Hundred Thousand Dollars (\$3,500,000). The amount due and owing shall decline during the Term of the Agreement, all as more fully described in the Covenant of Performance. The Covenant of Performance shall be dated and delivered as of the closing date when the Property is conveyed by the City to Developer.

(c) Construction Escrow. Developer's Financial Contribution and the City's Financial Contribution shall be deposited in and disbursed through an escrow account ("Escrow") held by Chicago

98616613

11-11-11

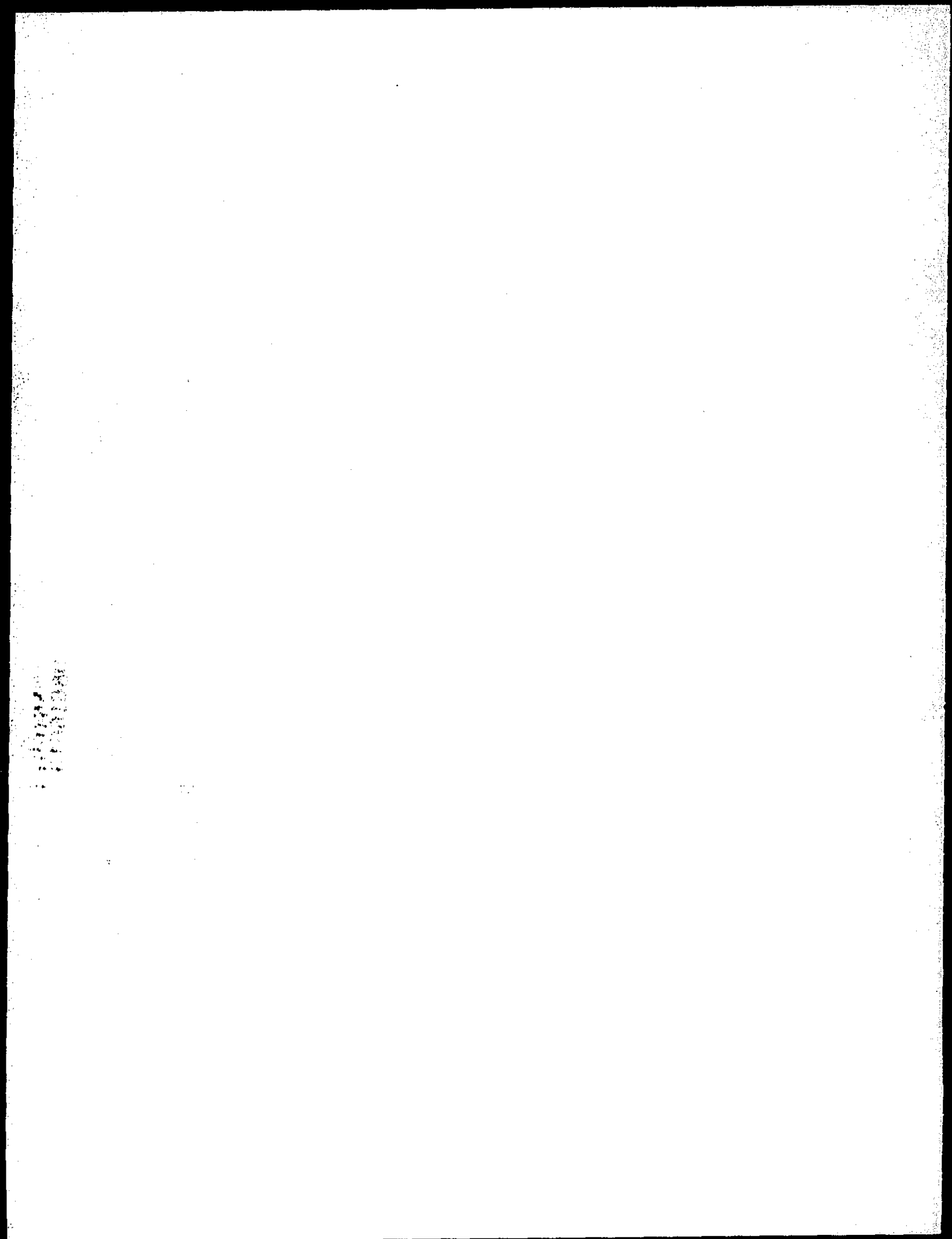
C. On March 20, 1979, the Commission designated an area within the corporate boundaries of the City as a blighted commercial area to be known as "Blighted Commercial Area North Loop" ("Original Redevelopment Area"), and on March 20, 1979, approved a redevelopment plan ("Redevelopment Plan") for the Original Redevelopment Area. The blighted commercial area designation was approved by the City Council of the City of Chicago ("City Council"), pursuant to an ordinance duly adopted on March 28, 1979. The Redevelopment Plan was approved by the City Council pursuant to an ordinance duly adopted on March 28, 1979 and, as revised, was approved by an ordinance adopted on October 27, 1982. The North Loop Guidelines for Conservation and Redevelopment ("Guidelines") pertaining to the Original Redevelopment Area, were approved by the Commission on March 31, 1981, approved and revised by the Chicago Plan Commission on May 14, 1981, and, as so revised, were approved by the City Council on October 22, 1981, as further revised by the Commission on October 12, 1982, and, as so further revised and approved by the Chicago Plan Commission on October 14, 1982, and, with additional revisions, were further approved by the City Council on October 27, 1982, and as further revised and approved by the Chicago Plan Commission on September 2, 1987, and were further approved by the City Council on September 23, 1987, and as further revised by the Commission on January 24, 1989, as so further revised and approved by the Chicago Plan Commission on February 9, 1989, and were finally approved by the City Council on March 29, 1989. An ordinance approving the North Loop Tax

98616613

Title and Trust Company or such other institutional escrowee ("Escrowee") mutually acceptable to the parties, under the terms and conditions of a customary joint escrow agreement ("Escrow Agreement"). The respective rights, liabilities and duties of the Escrowee, as well as the purposes for which disbursements may be made from the Escrow and the terms and conditions upon which the same can be made, are contained in the Agreement. The parties agree that as between them if any conflict exists between the terms of the Agreement and any escrow instructions or other documents affecting the Escrow, the terms and provisions of the Agreement shall govern.

1. Permitted Disbursements. At the request of and on behalf of Developer, the Escrowee, pursuant to the terms of the Agreement, shall through disbursements from the Escrow pay directly to the contractor or vendor of Developer or any payee designated by Developer (except to Developer itself with respect to its development fee), including, the General Contractor or any Subcontractor, as the case may be, for eligible Project costs as further described in the Budget. The City's Financial Contribution, however, shall be solely utilized to pay for TIF Funded Improvements as are more fully described in Exhibit F attached hereto. The City's Financial Contribution and Developer's Financial Contribution shall be deposited with the Escrowee from time to time on an as needed basis to fund permitted disbursements pursuant to the Agreement.

98616613



2. Conditions Precedent to Disbursement. Prior to the initial disbursement of funds from the Escrow by the Escrowee (unless a later time is hereinafter contemplated or permitted), Developer shall deliver to the Escrowee the following documents:

(a) the LLC Agreement, a certificate of good standing from the State of Delaware and the State of Illinois from Developer and each Entity comprising Developer, and an accompanying certificate of incumbency from each Entity;

(b) a mortgage title commitment or policy covering the Property showing: (i) the Agreement and the Preservation Easement as having been recorded against the Property;

and (ii) those permitted exceptions as approved by the DPD;

(c) a Class A plat of survey (in the most recently revised form of ALTA/ACSM land title survey) of the Property dated within thirty (30) days prior to the commencement of construction of the Project or such earlier date as might be acceptable to the Title Company, prepared and certified by a surveyor licensed in the State of Illinois showing all easements, encroachments and containing a legal description of the Property, and flood plain certification, certified to the City and the Title Company;

(d) copies of the Construction Contract and any Subcontracts, if then available and thereafter when obtained, certified

11 4 1937

- by Developer as being a true and complete copy;
- (e) a true copy of the building permits when issued by the City;
 - (f) Internal Revenue taxpayer identification numbers of Developer;
 - (g) originals of the First Mortgage, if any; and
 - (h) a duplicate original of the payment and performance bond as required by the provisions of Section 4.6(c) above in which the City is named an obligee or beneficiary; and
 - (i) an opinion of counsel letter substantially in the form attached hereto as Exhibit I, with such changes as may be required by or acceptable to the Corporation Counsel of the City;
 - (j) current searches under Developer and each Entity, 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

- and such other searches from such other offices as the City may require in its reasonable discretion; and
- (k) such other documents as are reasonably required of Developer to effectuate the transaction.

Developer shall simultaneously deliver to the Inspector one set of the Working Drawings and Specifications as prepared and available from time to time and a copy of the Budget..

Escrowee shall also have received from the City a certified copy of the ordinance authorizing the City to enter into this transaction.

3. Disbursements. Disbursements from the Escrow covering the Project costs described in paragraph 1 of this subsection 4.7(c) shall be made by the Escrowee, upon receipt of certification for payment by the Developer's architect ("Architect") on AIA Form G702 (or variant) and the receipt of the prior approval of the Inspector, the Lender, and the City, in the following manner:

(a) Method. Subject to the provisions of the Agreement, the Escrowee shall disburse directly to Developer or to the General Contractor, or so if directed, to such Subcontractor, vendor and any other persons as have actually supplied labor, materials or services in connection with the completion of the construction of the Project.

(b) Holdback Provision. The City and/or Developer shall be permitted to hold back for later deposit with Escrowee, or direct the Escrowee to hold back, on each request for advance for payment covering the costs described in paragraph 1 above of this subsection 4.7(c) an amount equal to ten percent (10%) of the requested sum until fifty percent (50%) of the Project is completed, and thereafter five percent (5%) until the Architect

98616613

certifies the substantial completion of the Project on AIA Form G704 and the City issues its Certificate with regard to completion of the Project; except that the full amount of Developer's Equity shall be fully deposited with the City no later than July 1, 1998 or the execution date of the Escrow, whichever date is earlier, and subsequently deposited with the Escrowee upon execution of the Escrow Agreement by the parties.

(c) Final Disbursement. Subject to the provisions of the Agreement, and as long as Developer is not in default in the due, prompt and complete performance or observance of any of its covenants or obligations contained in the Agreement and the Covenant of Performance, the final disbursement of funds constituting the holdback portion referred to above shall be made through the deposit of funds that have been retained if not previously deposited in the Escrow and disbursed by the Escrowee when Developer has completed the Project to the satisfaction of the Architect as evidenced by the issuance of a Final Certificate of Payment on AIA Form G702, and by the Inspector as evidenced by the issuance of the Inspector's Certificate regarding substantial Completion of the Project, and provided that Developer has submitted to the Escrowee, the DPD, the Lender and the Inspector affirmative proof that no materialmen's liens or claims or liens exist affecting the Property or could result due to the undertaking of the Project. Any sums thereafter remaining in the Escrow shall be disbursed pursuant to applicable provisions of the Agreement.

98616613

100-100-100-100

1000000000

(d) Request for Advances. Concurrently with the request for any disbursement from the Escrow ("Request for Advance"), Developer shall furnish to the Escrowee, the DPD, the Lender and the Inspector, separately with respect to each disbursement request, a Request for Advance duly signed with all blanks appropriately filled in setting forth such details concerning the costs contained therein as said parties shall require, including: (a) a detailed breakdown of percentages and costs of the completion of various phases of the Project, showing the amounts expended to date for such restoration, renovation, rehabilitation or construction, as the case may be, and the amounts then due and unpaid, an itemized estimate of the amount necessary to complete the work in its entirety and also containing certification by Developer and the certification for payment by the Architect on AIA Form G702 that the restoration, renovation, rehabilitation or the construction of the Project to date of such certificate complies with the Working Drawings and Specifications; (b) if requested by the Escrowee, the Inspector, the City, or the Lender, a list of the names and addresses of all material dealers, laborers and Subcontractors with whom agreements have been made by Developer or the General Contractor; (c) if requested by the Escrowee, the Inspector, the City or the Lender, receipted invoices, and/or releases or waivers of lien on forms approved by the Escrowee and the Inspector from each material dealer, contractor and Subcontractor who has done work or has furnished materials for the Project, including but without limitation, those covered by each such Request for Advance.

98616613

100-100000

If work on the Property has begun prior to the initial disbursement, then Developer shall provide the Escrowee, the City and the Inspector with all such items as aforesaid, and/or acknowledgement of receipt of payment for work or materials previously provided, and any additional items as the Escrowee, the City and the Inspector may reasonably require prior to such initial disbursement.

Also included with a Request for Advance shall be Developer's written report describing any modifications, change orders or amendments to the Construction Contract or any Subcontract, all as described further in subsection 4.6(b) above.

4. Compliance with Conditions Precedent. Each request for disbursement from the Escrow submitted by Developer shall be subject to compliance to the satisfaction of the Escrowee, the City, the Lender and the Inspector, in both form and substance, with the applicable conditions precedent for disbursements as set forth in the Agreement.

5. Time for Payment of Requisitions. Upon receipt of a Request for Advance by the Escrowee, the Escrowee shall have three (3) business days in order to effect such Advance.

6. Inspection. During the undertaking of the Project, the Lender shall employ, for the benefit of the City, the Lender and Developer (or in the event no Lender exists, then the City shall employ) an inspector or architect ("Inspector") other than the Architect. The fees and expenses to be paid the Inspector shall be provided by the City exclusive of the City's Financial

18616613

13700311123

Contribution. The Inspector shall be selected by the Lender and acceptable to the City and Developer, or if no Lender exists, by the City and acceptable to Developer. The Inspector shall review for the parties all activities associated with the completion of the Project, which Inspector shall certify or otherwise indicate to the Escrowee on the form attached hereto as Exhibit J that the completion of such work of the Project to the date of each Request for Advance and as certified by the Architect is as set forth in said Request for Advance and certificate, and that such restoration, renovation, rehabilitation or construction, as the case may be, complies with the Working Drawings and Specifications, such indication from the Inspector to be a condition precedent to the approval by the Escrowee of any submitted Request for Advance of Developer. A representative of the DPD shall have the right, but not the obligation, to accompany the Inspector during his inspection of the Project.

Prior to the final completion of the Project, Developer, the Architect, the Inspector and the City shall conduct a preliminary inspection of the Building and the Property, and thereafter the Inspector (in consultation with the Developer, the City and the Architect) shall prepare a list of punch list items to be undertaken by Developer. Once such work is completed, the Inspector and the City shall re-inspect the Building and the Property, and if satisfied, the Inspector shall issue a certificate ("Final Inspector's Certificate") that the construction of the Project is completed in accordance with the Working Drawings and

98616613

10/10/10

Specifications, the Agreement, the Redevelopment Documents and if applicable, the Landmarks Ordinance and the Preservation Easement. The determination of the Inspector with regard to Developer's compliance with the construction of the Project in accordance with the Working Drawings and Specifications collectively as described in this Section shall be binding on the parties.

7. Disbursements; Deficiencies. The Escrowee shall pay any and all such disbursements directly to the General Contractor or such person or persons as have actually supplied labor, materials, property or services in connection with the undertaking of the pertinent work. In no event shall the Escrowee be required to disburse any Advance which, in the Lender's or the City's reasonable opinion, shall reduce the remaining amounts available to pay for the balance of the work, labor and materials necessary to fully complete the Project. In accordance with the provisions of subsection 4.6(b) above, if at any time it shall appear to the City or the Lender that the undisbursed portion of funds available and the remaining contingency reserve is insufficient, then Developer, within ten (10) days of written notice from the City or the Escrowee, shall be required to deposit such necessary funds in Escrow or otherwise to identify to the City and the Lender other funds to be made available as contingency or otherwise to complete the Project, and until then, it is expressly understood and agreed that, absent an express waiver by the Lender and the City, no Advance shall be made by the Escrowee. In the event that at any time the Escrowee (at the written request of the Lender or the

18616613

100-100000

City) demands that Developer remedy any such deficiency and Developer shall fail to do so as aforesaid, then the Escrowee shall have no further obligation to make further disbursement until said deficiency is remedied. In the event the Lender or the City shall require and Developer shall provide any sums to remedy deficiencies as aforesaid, the Escrowee shall hold said sums in a separate account established for such purpose, and such funds shall not be commingled with the proceeds of the Escrow or, at the sole option of the Escrowee, the Escrowee may apply all or any portion of such deposit to payment of the submitted Request for Advance. Developer's failure either to remedy any deficit or to identify other funds to be made available as contingency or otherwise complete the Project as aforesaid shall constitute a default of the terms of the Agreement.

8. Investment of Escrow Funds. The City's Financial Contribution, upon its deposit from time to time by the City in the Escrow, shall be invested or reinvested by the Escrowee at the written direction of the City to the extent permitted by law. Any interest received upon said investment of escrow funds shall be paid to the City.

4.8 Relocation of Utilities. In the event Developer requests the relocation, repair or replacement of any existing City utility lines in and under the Property, the public streets or private property adjacent to the Property, Developer agrees to cause such utilities to be relocated, repaired or replaced at Developer's sole expense. The DPD shall use its best efforts to assist Developer in

98616613

000000