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2001-07-06 14:16:53  
Cook County Recorder 39.00



Prepared by:  
After recording return to:  
Alan Lancaster  
CIG International, LLC  
1350 Connecticut Ave., N.W., St. 1250  
Washington, DC 20036

7900264-DI  
Touchill

COLLATERAL ASSIGNMENT  
OF LOAN DOCUMENTS

THIS COLLATERAL ASSIGNMENT OF LOAN DOCUMENTS (this "Assignment") is made as of this 27<sup>th</sup> day of June, 2001, by CIG INTERNATIONAL, LLC, a Delaware limited liability company, as assignor, ("Borrower"), for the benefit of CAPITALSOURCE FINANCE LLC, a Delaware limited liability company, as assignee, ("Lender").

RECITALS

A. Lender has made a loan to Borrower in the form of a revolving credit facility in the maximum principal amount of \$30,000,000 (the "Loan") evidenced by two promissory notes (collectively, the "Note"), Promissory Note A in the maximum principal amount of \$20,000,000 and Promissory Note B in the maximum principal amount of \$10,000,000 and a Revolving Credit Agreement (the "Loan Agreement") secured by a security interest in all existing and after-acquired tangible and intangible assets of the Borrower (the "Collateral") pursuant to a Security Agreement encumbering the Collateral. The Note, the Loan Agreement, this Assignment and all of the other documents evidencing and securing the Loan shall be herein referred to as the "Loan Documents."

B. Borrower has requested an Advance of the Loan and Lender is willing to make an Advance to Borrower, subject to and in accordance with the terms of the Loan Agreement and the other Loan Documents provided that Borrower provides this Collateral Assignment of Loan Documents to Lender, including without limitation an assignment of that certain Second Mortgage and Security Agreement given by River City Residences, LLC, an Illinois limited liability company; River City Holdings, LLC, an Illinois limited liability company; River City Marina, LLC, an Illinois limited liability company, 800 South Wells Phase I, LLC, an Illinois limited liability company; and 800 South Wells Phase II, LLC, an Illinois limited liability company to Borrower dated March 14, 2001 and recorded with the Cook County recorder's office on March 28, 2001 as Document No. 0010245099 to secure a mortgage note of even date therewith in the original principal amount of \$6,600,000.00.

NOW, THEREFORE, Borrower, in consideration of the foregoing and as an inducement to Lender to make an Advance from the Loan to Borrower, and other good and valuable

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consideration, the receipt and sufficiency of which being hereby acknowledged, hereby covenants, agrees, warrants and represents as follows:

1. Recitals. The foregoing recitals are a part of this Assignment and are incorporated herein by reference.
2. Definitions. Capitalized terms not defined in this Assignment shall have the respective meanings ascribed to them in the Loan Agreement.
3. Assignment. Borrower hereby collaterally assigns, pledges, transfers and sets over to Lender and grants to Lender a direct and exclusive first priority security interest (collectively, the "Security Interest"), in and to the following property of Borrower, whether now owned or existing or hereafter acquired or coming into existence:
  - (a) The Collateral, the Collateral Note, the Participation Certificate, the Collateral Mortgage and all of the other Collateral Loan Documents, including, without limitation, the Collateral Loan Documents described on Exhibit A attached hereto, assigning to Lender all Collateral Loan Documents evidencing the loan made by Borrower and secured by an encumbrance on the Mortgaged Property described on Exhibit B attached hereto, together with all amendments thereto and substitutions thereof;
  - (b) all notes and other evidences of indebtedness under the Loan Collateral, instruments, guaranties, assignments, indemnities, mortgages, acts of mortgage, security deeds, participation agreements, servicing agreements, financing statements and other documents comprising the Loan Collateral;
  - (c) all rights, claims, actions and/or causes of actions under the Collateral Loan Documents which may accrue to the holder of same otherwise, including, without limitation, all rights with respect to any representations, warranties, covenants and indemnities thereunder;
  - (d) any rights, privileges and remedies which may accrue and/or belong to the holder of the Collateral and Collateral Loan Documents or which shall arise in the future in and/or to any of the Mortgaged Property;
  - (e) all right, title and interest which Borrower and/or any other owner of the Loan Collateral and Collateral Loan Documents now and/or in the future may have in any of the Mortgaged Property;
  - (f) any insurance policies, title insurance policies and escrow agreements relating to the Mortgaged Property, or the Collateral Loan Documents and all rights which Borrower and/or any other owner of the Loan Collateral and Collateral Loan Documents now and/or in the future may have therein;
  - (g) all letters of credit, deposits and collections assigned to and/or collected by Borrower from time to time with regard to the Collateral Loan Documents and the Mortgaged Property;

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- (h) all lost note affidavits and similar documents and all bonds pertaining to the Collateral Loan Documents;
- (i) all lawsuits, judgments and actions pertaining to the Collateral Loan Documents and any successful bids at foreclosure sales relating thereto;
- (j) all files, books and records of Borrower pertaining to the Mortgaged Property, and the Collateral Loan Documents;
- (k) all accounts (including bank or other deposit accounts or similar items) and accounts receivable of Borrower pertaining to the Mortgaged Property, and the Collateral Loan Documents;
- (l) all contract rights arising or accruing for, by reason or on account of the Collateral Loan Documents, the Mortgaged Property, including but not limited to contracts for deed, installment contracts, and/or contracts or similar arrangements or any insurance policies, any title insurance policies and sales contracts relating to the Collateral Loan Documents, or the Mortgaged Property;
- (m) any right, title and interest which Borrower may have or acquire by reason of condemnation, taking or the exercise of the power of eminent domain with respect to the Mortgaged Property;
- (n) all other instruments, documents, operating agreements, franchise agreements and chattel paper pertaining to, governing, securing and/or evidencing the Loan Collateral; and
- (o) all products and proceeds of the foregoing.

4. Security Interest. The Security Interest granted hereby and pursuant to the Security Agreement shall be absolute, continuing and applicable to the Loan and to the Indebtedness. The Collateral shall secure repayment of the Loan and the performance of the obligations under the Loan Documents. If requested by Lender, Borrower shall concurrently herewith and/or from time to time hereafter upon request from Lender endorse any of the Collateral to or at the direction of Lender in Lender's sole and absolute discretion. In the event that such endorsement shall not be made by Borrower promptly upon demand by Lender, Lender is hereby authorized to make such endorsement on the behalf of and in the name of Borrower, it being hereby agreed that Lender is Borrower's true and lawful attorney-in-fact for such purposes, exercisable at any time. In the event that any of the Collateral Loan Documents contain blank spaces for insertion of recording information, Borrower hereby authorizes Lender to insert, or to direct any Custodian to insert, the appropriate recording information. Borrower does hereby irrevocably appoint and constitute Lender as Borrower's true and lawful attorney-in-fact to exercise any and all of Borrower's rights in, to and under the Collateral, to give appropriate receipts, releases and satisfactions on behalf of Borrower in connection with the Collateral, and to do any or all other acts, in Borrower's name or in the name of Lender, that Borrower could do

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under any or all of the Collateral with the same force and effect as if this Assignment had not been executed.

5. Pledge and Delivery. Borrower hereby pledges and deposits the Loan Collateral with Lender and will pledge and deposit with Lender all the documents evidencing, securing, governing or pertaining to the Loan Collateral from time to time hereafter executed and delivered by or on behalf of the Loan Borrowers of the Loan Collateral or any other person under the Loan Collateral to Borrower, which pledge is made as collateral security for the payment and performance of the Note and the Indebtedness. The Loan Collateral shall be held by Lender and/or a Custodian subject to the terms and conditions hereof and as collateral security as aforesaid or such other person or entity as Lender may designate.

6. Representations and Warranties. Borrower hereby represents and warrants to Lender that (a) all of the representations described in Section 3.2 of the Loan Agreement are true and correct as of the date hereof, (b) all of the conditions of Section 2.2 of the Loan Agreement with respect to the Loan Collateral described in this Assignment have been satisfied, and (c) no Default or Event of Default has occurred under the Note, the Loan Agreement or any of the other Loan Documents.

7. Representations and Warranties. Borrower and Lender covenant and agree that all representations, warranties, covenants and agreements made herein or in any certificate or other document delivered to Lender by or on behalf of Borrower pursuant to or in connection with this Assignment shall be deemed to have been relied upon by Lender notwithstanding any investigation heretofore or hereafter made by Lender or on its behalf, and shall survive the making of the disbursement contemplated hereby.

8. Limitation of Liability. LENDER DOES NOT HEREBY ASSUME AND SHALL HAVE NO RESPONSIBILITY, OBLIGATION OR LIABILITY TO ANY LOAN BORROWER OR LOAN GUARANTOR OF ANY LOAN COLLATERAL OR ANY OWNER OF ANY MORTGAGED PROPERTY FOR ANY LOAN COLLATERAL, LENDER'S RELATIONSHIP BEING THAT ONLY OF A CREDITOR WHO HAS TAKEN, AS SECURITY FOR INDEBTEDNESS OWED TO IT, A COLLATERAL ASSIGNMENT FROM BORROWER OF THE COLLATERAL. EXCEPT AS REQUIRED BY LAW OR AS NECESSARY TO RELEASE COLLATERAL LOAN DOCUMENTS (AS AND TO THE EXTENT EXPRESSLY PERMITTED UNDER THIS ASSIGNMENT) UPON SATISFACTION OF THE APPLICABLE REQUIREMENTS OR AS NECESSARY TO EFFECT ENFORCEMENT OF THE COLLATERAL LOAN DOCUMENTS, BORROWER WILL NOT, AT ANY TIME, USE THE NAME OF OR MAKE REFERENCE TO LENDER WITH RESPECT TO THE LOAN COLLATERAL OR OTHERWISE, WITHOUT THE EXPRESS WRITTEN CONSENT OF LENDER.

9. Miscellaneous.

(a) Governing Law. IN ALL RESPECTS (INCLUDING, WITHOUT LIMITATION, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE), THIS ASSIGNMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE

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STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA WITHOUT GIVING EFFECT TO NEW YORK'S CHOICE OF LAW PROVISIONS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATION LAW).

(b) Successors. Except as otherwise provided in this Assignment, whenever in this Assignment any of the parties hereto is referred to, such reference shall be deemed to include the successors and permitted assigns of such party. All covenants, promises and agreements in this Assignment contained, by or on behalf of Borrower, shall inure to the benefit of Lender and its respective successors and assigns.

(c) Modification, Waiver in Writing. Neither this Assignment nor any other Loan Document nor any of the terms hereof or thereof may be amended, changed, waived, discharged or terminated, nor shall any consent or approval of Lender be granted hereunder, unless such amendment, change, waiver, discharge, termination, consent or approval is in writing signed by Lender.

(d) Headings. The Article and Section headings in this Assignment are included herein for convenience of reference only and shall not constitute a part of this Assignment for any other purpose.

(e) Severability. Wherever possible, each provision of this Assignment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Assignment shall be prohibited by or invalid under applicable 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 Assignment.

(f) Counterparts. This Assignment may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

(g) No Third-Party Beneficiaries. This Assignment and the other Loan Documents are solely for the benefit of Lender and Borrower, and nothing contained in this Assignment or the other Loan Documents shall be deemed to confer upon anyone other than Lender and Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained herein or therein. All conditions to the obligations of Lender to make the Loan hereunder are imposed solely and exclusively for the benefit of Lender, and no other Person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make the Loan in the absence of strict compliance with any or all thereof, and no other Person shall under any circumstances be deemed to be a beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Lender if, in Lender's sole discretion, Lender deems it advisable or desirable to do so.

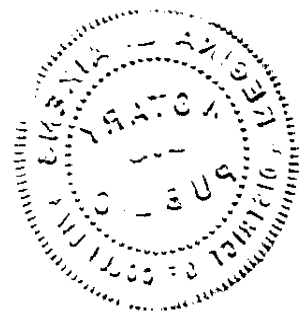
(h) Time of Essence. Time is of the essence of each and every provision of this Assignment of which time is an element.





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## EXHIBIT A

### Collateral Loan Documents

1. Second Mortgage and Security Agreement, with Assignment of Rents dated as of March 15, 2001 by Borrower to Lender.
2. Mortgage Note dated as of March 15, 2001 executed by Borrower, payable to Lender in the original principal amount of \$6,600,000.00.
3. Second Assignment of Leases and Rents dated as of March 15, 2001 by Borrower to Lender.
4. Loan Agreement dated as of March 15, 2001 between Borrower and Lender.
5. Limited Guaranty (Recourse Obligations) dated as of March 15, 2001 from Guarantor.
6. Continuing and Unconditional Construction Cost and Completion Guaranty dated as of March 15, 2001 from Guarantor.
7. Environmental Indemnity Agreement dated as of March 15, 2001 from Borrower and Guarantor to Lender.
8. Collateral Pledge and Security Agreement (River City Holdings, LLC) dated as of March 15, 2001 between Guarantor, Investors, RCH and Lender.
9. Collateral Pledge and Security Agreement (River City Residences, LLC) dated as of March 15, 2001 between RCH, RCR and Lender.
10. Collateral Pledge and Security Agreement (River City Marina, LLC) dated as of March 15, 2001 between RCH, RCM and Lender.
11. Collateral Pledge and Security Agreement (800 South Wells Phase I, LLC) dated as of March 15, 2001 between Guarantor, Phase I and Lender.
12. Collateral Pledge and Security Agreement (800 South Wells Phase II, LLC) dated as of March 15, 2001 between Guarantor, Phase II and Lender.
13. Advisory Fee Agreement dated as of March 15, 2001 between Borrower and Lender.
14. Assignment of Agreements Affecting Real Estate dated as of March 15, 2001 by Borrower to Lender.
15. Fee Earner Consent and Agreement (Brokerage) Residential dated as of March 15, 2001 by American Invsco Realty, Inc., an Illinois corporation to Lender.
16. Fee Earner Consent and Agreement (Brokerage) Marina dated as of March 15, 2001 by American Invsco Realty, Inc., an Illinois corporation to Lender.
17. Fee Earner Consent and Agreement (Property Management Fee) Residential dated as of March 15, 2001 by Invsco Management Company, Inc., an Illinois corporation to Lender.
18. Fee Earner Consent and Agreement (Property Management Fee) Marina dated as of March 15, 2001 by Invsco Management Company, Inc., an Illinois corporation to Lender.
19. Fee Earner Consent and Agreement (Marketing Supervision Fee) Residential dated as of March 15, 2001 by Invsco Advertising, Inc., an Illinois corporation to Lender.

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20. Fee Earner Consent and Agreement (Marketing Supervision Fee) Marina dated as of March 15, 2001 by Invsco Advertising, Inc., an Illinois corporation to Lender.
21. Fee Earner Consent and Agreement (Construction Management Fee) Residential dated as of March 15, 2001 by Home By Invsco, Inc., an Illinois corporation to Lender.
22. Fee Earner Consent and Agreement (Construction Management Fee) Marina dated as of March 15, 2001 by Home By Invsco, Inc., an Illinois corporation to Lender.
23. Fee Earner Consent and Agreement (Mortgage Finance Fee) dated as of March 15, 2001 by Mortgage Funding Consultants, Inc., an Illinois corporation to Lender.
24. Fee Earner Consent and Agreement (Contract Administration) dated as of March 15, 2001 by Mortgage Funding Consultants, Inc., an Illinois corporation to Lender.
25. Fee Earner Consent and Agreement (Equity Placement Fee) dated as of March 15, 2001 by Home By Invsco, Inc., an Illinois corporation to Lender.
26. Fee Earner Consent and Agreement (Business Plan Development) dated as of March 15, 2001 by Home By Invsco, Inc., an Illinois corporation to Lender.
27. Fee Earner Consent and Agreement (Project Supervision Fee) dated as of March 15, 2001 by Home By Invsco, Inc., an Illinois corporation to Lender.
28. Fee Earner Consent and Agreement (Facilities Management) dated as of March 15, 2001 by Invsco Management Company, Inc., an Illinois corporation to Lender.
29. Fee Earner Consent and Agreement (Incentive Management Fee) dated as of March 15, 2001 by Guarantor to Lender.
30. Copy of Intercreditor Agreement between Lender, as junior lender and CIB Bank, an Illinois banking corporation, as senior lender.
31. Copy of Intercreditor Agreement between Lender, as senior lender and CIB Bank, an Illinois banking corporation, as junior lender.
32. Copy of Intercreditor Agreement between Lender, as senior lender and Investors, as junior lender.
33. Copy of Intercreditor Agreement between Lender, CIB Bank, Investors and Parkway Bank.
34. Certification of Non-Foreign Status from Borrower.
35. UCC-1 Financing Statement with Borrower, as Debtor, and Lender, as Secured Party, filed on March 29, 2001 with the State of Illinois as Document No. 4361357.
36. UCC-2 Financing Statement with Borrower, as Debtor, and Lender, as Secured Party, recorded on March 29, 2001 with the Cook County Recorder as Document No.01403002.
37. UCC-1 Financing Statement with RCH, as Debtor, and Lender, as Secured Party, filed on March 29, 2001 with the State of Illinois as Document No. 4361355 for pledge of membership interests in RCR and RCM.
38. UCC-1 Financing Statement with Guarantor, as Debtor, and Lender, as Secured Party, filed on March 29, 2001 with the State of Illinois as Document No. 4361356 for pledge of membership interest in Phase I and Phase II.

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39. UCC-1 Financing Statement with Guarantor and Investors, as Debtor, and Lender, as Secured Party, filed with the State of Illinois as Document No. 4361350 for pledge of membership interest in RCH.
40. UCC-1 Financing Statement with Guarantor and Investors, as Debtor, and Lender, as Secured Party, filed on March 30, 2001 with the State of Michigan as Document No. 23049C for pledge of membership interest in RCH.
41. Title Insurance Policy No. 7900264, issued by Chicago Title Insurance Company dated March 28, 2001 in the amount of \$6,600,000.00.
42. Legal Opinion dated March 15, 2001 from Horwood, Marcus & Berk.
43. Legal Opinion dated March 15, 2001 from Seyburn, Kahn, Ginn, Bess and Serlin.
44. Closing Escrow Instructions dated March 15, 2001 to Chicago Title Insurance Company by Gardner, Carton & Douglas with attached marked up title commitment, as amended by letter dated March 21, 2001.
45. Closing Disbursement Statement dated March 22, 2001 prepared by Chicago Title and Trust Company.
46. Survey dated February 26, 2001 by National Survey Company.

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## EXHIBIT B

### Mortgaged Property

THAT PART OF BLOCKS 85 AND 86 IN THE SCHOOL SECTION ADDITION TO CHICAGO, BEING A SUBDIVISION OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN AND THE FILLED OLD CHANNEL OF THE SOUTH BRANCH OF THE CHICAGO RIVER ALL TAKEN AS A TRACT AND DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE EAST LINE OF BLOCK 86 AFORESAID AND THE SOUTH LINE OF WEST POLK STREET, BEING ALSO THE NORTH LINE OF BLOCK 86 AFORESAID; THENCE NORTH 89 DEGREES 53 MINUTES 33 SECONDS WEST ALONG THE SOUTH LINE OF WEST POLK STREET 10.00 FEET TO A POINT ON THE WEST LINE OF SOUTH WELLS STREET (SAID WEST LINE BEING DRAWN 10.00 FEET WEST OF AND PARALLEL WITH THE AFOREMENTIONED EAST LINE OF BLOCK 86) SAID POINT BEING THE POINT OF BEGINNING OF THE TRACT HEREINAFTER DESCRIBED; THENCE SOUTH 0 DEGREES 03 MINUTES 37 SECONDS EAST, ALONG THE WEST LINE OF SOUTH WELLS STREET AFORESAID, 674.00 FEET; THENCE NORTH 89 DEGREES 55 MINUTES 45 SECONDS WEST, 315.078 FEET TO THE EAST LINE OF THE SOUTH BRANCH OF THE CHICAGO RIVER AS ESTABLISHED BY ORDINANCE PASSED JULY 8, 1926; THENCE NORTH 5 DEGREES 26 MINUTES 15 SECONDS WEST ALONG THE EAST LINE OF THE SOUTH BRANCH OF THE CHICAGO RIVER AFORESAID, 179.644 FEET TO ITS POINT OF INTERSECTION WITH THE SOUTHWESTERLY FACE OF THE DOCK AS IT EXISTED PRIOR TO JULY 8, 1926; THENCE NORTH 17 DEGREES 31 MINUTES 24 SECONDS WEST ALONG THE EAST LINE OF THE SOUTH BRANCH OF THE CHICAGO RIVER AFORESAID, 39.09 FEET; THENCE NORTH 4 DEGREES 27 MINUTES 27 SECONDS WEST ALONG THE EAST LINE OF THE SOUTH BRANCH OF THE CHICAGO RIVER AFORESAID, 459.60 FEET TO A POINT ON THE HERETOFORE MENTIONED SOUTH LINE OF WEST POLK STREET; THENCE SOUTH 89 DEGREES 53 MINUTES 33 SECONDS EAST ALONG THE SOUTH LINE OF WEST POLK STREET AFORESAID 378.88 FEET TO THE HEREINABOVE DESIGNATED POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

AREA = 235.903.0 SQUARE FEET OR 5.4156 ACRES.

Common Address: 800 S. Wells Street, Chicago, Illinois 60607

PIN Nos.: 17-16-401-004-0000; 17-16-401-005-0000

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