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Cook County Recorder 76.00



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Prepared by and after recording
return to:

Joan S. Cherry, Esq.
Johnson and Colnar
300 S. Wacker Drive
Suite 1000
Chicago, Illinois 60606

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VILLAGE OF LINCOLNWOOD

ORDINANCE NO. 2002-2568

AN ORDINANCE AUTHORIZING EXECUTION OF AN AGREEMENT
WITH SIMON PROPERTY GROUP (ILLINOIS), L.P. RELATING TO
A PARCEL OF LAND LOCATED IN THE LINCOLNWOOD TOWN
CENTER IN THE VILLAGE OF LINCOLNWOOD, COOK COUNTY ILLINOIS,
BEARING PERMANENT INDEX NUMBER 10-35-204-011

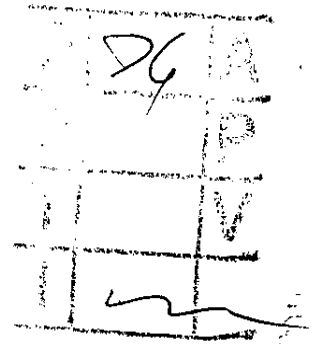
ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF LINCOLNWOOD
THIS 5th DAY OF September, 2002.

Published in pamphlet form by
the authority of the President
and Board of Trustees of the
Village of Lincolnwood, Cook
County, Illinois, this 19th
day of September, 2002.

OK BY _____

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ORDINANCE NO. 2002-2568

AN ORDINANCE AUTHORIZING EXECUTION OF AN AGREEMENT WITH SIMON PROPERTY GROUP (ILLINOIS), L.P. RELATING TO A PARCEL OF LAND LOCATED IN THE LINCOLNWOOD TOWN CENTER IN THE VILLAGE OF LINCOLNWOOD, COOK COUNTY ILLINOIS, BEARING PERMANENT INDEX NUMBER 10-35-204-011

WHEREAS, the Village of Lincolnwood ("Village"), as a home rule municipality, in accordance with Article VII Section 6(a) of the Constitution of the State of Illinois of 1970, is enacting this Ordinance pursuant to its authority as a home rule unit of government; and

WHEREAS, application has been made by Simon Property Group (Illinois), L.P. ("Developer") for economic assistance in the development of a Kohl's retail department store business ("Kohl's") on property located in the Lincolnwood Town Center in the Village of Lincolnwood, Cook County Illinois ("Property"), legally described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Developer owns the Property and will lease it to Kohl's; and

WHEREAS, the Economic Development Commission ("EDC") reviewed Developer's request for economic assistance, found it to be reasonable and beneficial to the economic development of the Village, suggested certain conditions be placed on the assistance, and recommended to the Village Board of Trustees that the assistance be approved with these certain conditions; and

WHEREAS, the President and the Board of Trustees ("Corporate Authorities") accepted the EDC's recommendations on April 18, 2002, and wish to enter into an Agreement ("Agreement ") with Developer to assist in the development of the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF

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TRUSTEES OF THE VILLAGE OF LINCOLNWOOD, COOK COUNTY, ILLINOIS, as follows:

SECTION ONE. The preamble to this Ordinance is hereby adopted as though fully set forth herein and is made a part hereof.

SECTION TWO. It is in the best interests of the health, safety and welfare of the Village of Lincolnwood and its citizens to authorize this Agreement, as it will have a positive effect on the economic development of the Village. **21147921**

SECTION THREE. The Village President, Village Administrator and Village Clerk are, therefore, authorized and directed to execute the Agreement attached as Exhibit "B" and made a part hereof.

SECTION FOUR. That, if any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be stricken from this Ordinance and shall not affect any other provision of this Ordinance.

SECTION FIVE. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law, provided a true and correct copy of this Ordinance is executed by Applicants consenting and agreeing to be bound by the terms and conditions of this Ordinance and such executed copy is delivered to the Village within thirty (30) days of the passage and approval of this Ordinance, or within such extension of time as may be granted by the Corporate Authorities by motion.

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PASSED this 5th day of September 2002.

AYES: Justices Jerry Saulty, Elster, County E. Reftikes

NAYS: none

ABSENT: Justice Froman

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APPROVED this 19th day of September 2002

Peter T. Moy
Peter T. Moy
Village President

ATTESTED AND FILED IN MY OFFICE:

Carol Krikorian
Carol Krikorian
Village Clerk

Simon Property Group (Illinois), L.P., being the owner of the property legally described within this Ordinance and David Simon having read a copy of this Ordinance, and David Simon having the authority to agree on behalf of Simon Property Group (Illinois), L.P. to execute this Ordinance, does hereby accept, concur with and agrees to develop said Property in accordance with its terms.

SIMON PROPERTY GROUP (ILLINOIS), L.P.,
an Illinois limited partnership

By: CHARLES MALL COMPANY LIMITED PARTNERSHIP, a Maryland limited partnership, General Partner

By: SIMON PROPERTY GROUP (DELAWARE), INC, a Delaware corporation, General Partner

By: David Simon
David Simon, Chief Executive Officer

Dated: August, 28, 2002

ATTEST:

James M. Barkley
James M. Barkley
General Counsel and Secretary

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EXHIBIT A

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PROPERTY LEGAL DESCRIPTION

Permanent Index Number

10-35-204-011

Lot 5C of the Lincolnwood Town Center Resubdivision of Lots 1 to 8 and Outlot A in the Lincolnwood Town Center Subdivision, being a subdivision of part of the North ½ of Section 35, Township 41 North, Range 13 East of the Third Principal Meridian, as recorded November 2, 1989 as Document No. 89522374.

Property of Cook County Clerk's Office

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EXHIBIT B

AGREEMENT

This Agreement ("Agreement") is made this 5th day of September 2002 (the "Effective Date"), by and among the VILLAGE OF LINCOLNWOOD, Illinois, a municipal corporation (the "Village"), SIMON PROPERTY GROUP (ILLINOIS), L.P., an Illinois limited partnership, having its principal place of business at 115 W. Washington Street, Indianapolis, Indiana 46204 ("Developer") (collectively, the "Parties").

WHEREAS, the Village is a home rule municipality in accordance with Article VII Section 6(a) of the Constitution of the State of Illinois of 1970, and is entering into this Agreement pursuant to its authority as a home rule unit; and

WHEREAS, the Developer is the owner of a parcel of land located in the Village which is approximately 102,314 square feet in size, and is located in the Lincolnwood Town Center Planned Unit Development ("LTC") and the Lincolnwood Town Center Mall ("LTC Mall"); and

WHEREAS, until November 2001, J.C. Penney ("Penney") was operating a retail department store business in the LTC Mall on LTC Lot number 5C and bearing Permanent Index Number 10-35-204-011 (the "Property"); and

WHEREAS, the Property is legally described in **Exhibit "1"** attached hereto and made a part hereof; and

WHEREAS, although Penney ceased retail operations at the Property, Penney continues to lease the Property and it remains vacant; and

WHEREAS, since Penney served as an anchor to draw shoppers to the LTC Mall, the tenants' businesses located in the wing of the LTC Mall near the Property are now less productive due to the vacancy of the Property, negatively impacting the Village's sales tax revenues to a greater extent than just from the loss of Penney's sales tax revenues; and

WHEREAS, Developer, in the best interest of the LTC Mall, marketed the Property to other operators of department stores in the Chicago market; and

WHEREAS, the Developer indicated that redevelopment of the Property in a first class manner is not economically feasible without the Village's economic assistance; and

WHEREAS, given the current, uncertain retail climate Developer has requested that the Village enter into a sales tax sharing arrangement with Developer that would assist Developer in securing a Kohl's retail department store for the vacant Property at the LTC Mall ("Kohl's"); and

WHEREAS, Developer has represented that such an arrangement will help offset some of the Developer's substantial additional investment, which is necessary to buy Penney out of its remaining lease term, and to provide the necessary inducement to Kohl's to locate at the LTC Mall, as opposed to competing sites outside the Village within the Chicagoland market area; and

WHEREAS, Kohl's has agreed with Developer to occupy and operate a retail department store of approximately 102,314 square feet on the Property; and

WHEREAS, a sales tax sharing arrangement was discussed in public hearings before the Village's Economic Development Commission ("EDC") which requested that the Village's consultant Kane

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McKenna and Associates, prepare revenue projections for Kohl's assuming its location on the Property;
and

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WHEREAS, the EDC considered the Developer's request for economic assistance and recommended to the Village Board of Trustees ("Board") that it grant the Developer's request for economic assistance; and

WHEREAS, the arrangement will benefit the LTC Mall, the Developer and the Village in that:

- a. the Village's revenue projections estimate that Kohl's will produce greater sales tax revenues on a yearly basis for the Village than did Penney.
- b. the Village would have the opportunity to recover the annual sales tax revenues already lost to it and to enhance those revenues from the revenues generated by the additional "spin-off" sales by the smaller merchants located in the LTC Mall.
- c. strengthening and preserving the LTC Mall will ensure the employment and revenue base for many years to come; and

WHEREAS, it is anticipated that having Kohl's in the LTC Mall will generate increased tax revenues for taxing bodies and the Village; and

WHEREAS, the Board has determined that it is necessary to the economic and social welfare of the Village that the Village promote the economic vitality of the Village by assuring opportunities for development and sound and stable commercial growth within the corporate limits of the Village; and

WHEREAS, the development of Kohl's as contemplated herein will help to improve the social and economic welfare of the Village, and the Board finds that the proposed development contemplated in this Agreement will enhance the tax base of the Village to the benefit of the Village and other governmental entities, and that the powers exercised hereunder are found to be in furtherance of the public interest; and

WHEREAS, the Board finds that the proposed development of the Property is in the best interest of the Village and the general health, safety and welfare of its citizens and in accordance with public purposes and the provisions of all applicable laws, and will create new economic vitality in the LTC Mall; and

WHEREAS, the Board, on April 18, 2002, accepted the recommendation of the EDC relating to economic assistance, and added two conditions to the recommendation, to wit: a \$3,500,000 maximum amount for the sales tax sharing agreement; and that Kohl's retail department store be open for business by December 31, 2004, and authorized the preparation of an Ordinance and an agreement to assist Developer in the redevelopment of the Property to enable it to locate a Kohl's on the Property;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

ARTICLE 1. PREAMBLES. The preambles and premises set forth above are an integral part of this Agreement and are hereby incorporated into and made a part of this Agreement by this reference.

ARTICLE 2. DEVELOPER'S RESPONSIBILITIES.

2.1 Develop Property: Developer hereby agrees that it will be responsible:

- A. for obtaining and remarketing the Property to Kohl's;

B. for the investment associated with obtaining and remarketing the Property to Kohl's.

2.2 Compliance with Codes: The development and construction of Kohl's shall be in accordance with this Agreement, the LTC Ordinance (Village Ordinance 88-1801) and all subsequent ordinances modifying Village Ordinance 88-1801, all Village codes and ordinances, and any other applicable state or governmental regulations.

2.3 Compliance with Village Sign Code: Any signs to be located on the Property which are not in compliance with the Village's Sign Ordinance are subject to the review and recommendations of the Village Sign Appearance Review Board and final approval of the Board. Sign permits shall be obtained separately from building permits.

2.4 Kohl's Must Commence Business: The sales tax sharing provisions contained in Article 4 herein are based on projected revenues from Kohl's and are expressly conditioned upon Kohl's opening for retail business to the general public by December 31, 2004. Developer agrees that Kohl's will fully open a Kohl's retail department store business in the LTC Mall no later than December 31, 2004 and if not open for said retail department store business by December 31, 2004, this Agreement shall terminate and shall be null and void.

ARTICLE 3. REIMBURSEMENT LIMITATION. The Board has determined that the Village shall provide reimbursement to the Developer, up to, but not exceeding a cumulative total of \$3,500,000, in accordance with the provisions of Article 4 herein.

ARTICLE 4. SALES TAX SHARING. In consideration of the economic benefit to the Village provided by Developer by locating Kohl's on the Property pursuant to this Agreement, the Village agrees to assist Developer in the cost of providing for these benefits and improvements on the basis of the following terms and conditions.

4.1 General Sales Tax Revenues: Sales tax sharing be limited to only those revenues actually received by the Village from the 1% Municipal Retailers Occupation Tax, commonly known as the general state sales tax ("General Sales Tax"), from Kohl's ("General Sales Tax Revenue"). Said General Sales Tax Revenue amounts shall not include any portion of the Village Home Rule Municipal Retailers' and Service Occupation Tax, commonly known as the Home Rule Sales Tax ("Home Rule Sales Tax"). Kohl's General Sales Tax Revenue projections are attached hereto as **Exhibit "2"** and made a part hereof.

4.2 Reimbursement Payments: Reimbursement payments by the Village to the Developer ("Reimbursement Payments") are to be made only from General Sales Tax Revenues and only as follows:

- A. Payments shall be made only from General Sales Tax Revenue generated during the Term.
- B. Payments shall be made only on the basis of General Sales Tax Revenue received by the Village during a calendar year (January 1 to December 31, hereafter, the "Calendar Year") during the Term of this Agreement. Payments shall be made from General Sales Tax Revenue generated during a partial Calendar Year which may occur for the first and last years of the Term.
- C. For each Calendar Year the Developer shall be paid in the manner set forth herein (the "Annual Payment").

The General Sales Tax Revenue shall be shared as follows:

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- (i) of the first \$150,000 of General Sales Tax Revenue received by the Village, 100% of General Sales Tax Revenue will be retained by the Village;
 - (ii) of the \$100,000 above the first \$150,000 of General Sales Tax Revenue received by the Village, 100% will be paid to Developer;
 - (iii) General Sales Tax Revenue received by the Village over \$250,000, will be shared equally between the Village and Developer.
- D. At no time shall the Village's payments to the Developer under this Agreement exceed a cumulative total of more than \$3,500,000.
- E. All amounts received by the Village and due the Developer under this Article 4 for the prior Calendar Year shall be payable on May 1 (the "Payout Date"), or thirty (30) days after the verification required by Article 4.3 is received by the Village, whichever is later, unless the Village fails to receive verification as required by Article 4.6 herein below, or unless the Developer has failed to comply with the requirements set forth herein.
- F. The Annual Payments shall cease if any one of the following events occur:
- (i) the total aggregate payment of General Sales Tax Revenue to the Developer reaches \$3,500,000;
 - (ii) if Kohl's ceases to operate a Kohl's retail department store business on the Property or if Kohl's ceases to operate the retail department store business as a Kohl's retail department store consisting of 102,314 square feet on the Property;
 - (iii) if Kohl's reduces its retail department store format in a manner which negatively affects the generation of General Sales Tax Revenue from the Property, e.g., using square footage of the Property for internet sales;
 - (iv) If the Developer has materially breached this Agreement;
 - (v) if the Term has expired.
- G. If the Term of this Agreement has expired and a final Annual Payment is due to Developer, then the Village, once it has received the General Sales Tax Revenue and the verification required by this Article 4, shall pay such final Annual Payment on the Payout Date, notwithstanding the expiration of the Term.

4.3 Verification of General Sales Tax Revenue: To properly verify General Sales Tax Revenue derived from Kohl's so as to effectuate this and other provisions of the Agreement, it is necessary that the Village be given access to sales tax data of Kohl's during the term of this Agreement including Kohl's taxpayer identification number used to report sales tax data to the State of Illinois Department of Revenue ("IDOR"). Developer shall require that Kohl's authorize IDOR to disclose to the Village the amount of General Sales Tax Revenue collected by the State of Illinois and disbursed to the Village from Kohl's sales on a calendar quarterly (e.g., January 1, April 1, July 1, and October 1) basis. Kohl's shall execute a consent form authorizing the IDOR to release the information required by this Agreement to the Village. The Village agrees to utilize said sales tax information solely for the purpose of effectuating the provisions of this Agreement, and to the extent permitted by the Illinois Freedom of Information Act and other relevant laws, shall endeavor to keep such information confidential. (The Consent Form executed by Patrick E. Peery, Sr. Vice President - Real Estate for Kohl's Department Stores, Inc.

authorizing release of Kohl's sales tax data from the Illinois Department of Revenue to the Village is attached hereto as **Exhibit "3"** and made a part hereof.) The IDOR report disclosing General Sales Tax Revenue data for Kohl's will be the documentation used by the Village to verify the General Sales Tax Revenue generated by Kohl's. If sales tax verification is not received by the Payout Date then the Developer shall not receive any portion of the Annual Payment for that year until 30 days after the Village receives the complete information necessary to calculate the Annual Payment, subject to the limitations set forth in Article 4.6 herein below.

4.4 No Extension of Term for Payments: In no event shall the Term of this Agreement be extended to provide the Developer with any Annual Payment subject to Article 4.2G herein.

4.5 Receipt of Verification and Receipt of General Sales Tax Revenue as a Condition Precedent to Annual Payment: The receipt of Kohl's General Sales Tax Revenue by the Village from the State of Illinois and verification as required herein, shall be a condition precedent to the Village's obligation to provide an Annual Payment to the Developer.

4.6 Failure to Receive Verification: If the Village does not receive the verification required under Article 4.3 and 4.5 above by July 31 of the year in which the Annual Payment is due, then the Village's obligation to make any Annual Payments under this Agreement shall be suspended and shall not resume until the Village receives the required verification hereunder.

ARTICLE 5. DEVELOPER REPRESENTATIONS AND WARRANTIES.

5.1 Good Standing: Developer represents and warrants that it is a limited partnership which is duly organized, validly existing and in good standing under the laws of the State of Illinois with power and authority to conduct its business in the State of Illinois as currently conducted and as contemplated by the Agreement.

5.2 Corporate or Other Authority: All necessary corporate, regulatory, or other similar action has been taken to authorize and empower Developer to execute, deliver and perform this Agreement.

5.3 Compliance with Applicable Laws: Developer agrees to comply with all applicable laws, regulations and rules promulgated by any Federal, State, County, Village and/or other governmental unit or regulatory body now in effect or which may be in effect during the performance of this Agreement.

5.4 No Untrue Statements of Material Fact: No information, document, certificate of an officer, statement furnished in writing, or report delivered to the Village by Developer to the knowledge of Developer, contains any untrue statement of a material fact or omits a material fact necessary to make the information, certificate, statement, or report not misleading.

5.5 No Litigation Pending: To Developer's knowledge no proceeding of any kind, including, but not limited to, litigation, arbitration, judicial or administrative, is pending or threatened against or contemplated by Developer which would under any circumstance have any material adverse effect on the execution, delivery, performance or enforceability of this Agreement.

5.6 No Bid Rigging or Bid Rotating: Developer certifies that it is not barred from contracting with the federal government, any state government or a unit of local government as a result of a violation and that it has not engaged in bid rigging or bid rotating and has so certified by completing the appropriate attestation which is included as **Exhibit "4"** to this Agreement and is attached hereto and made a part hereof.

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5.7 **Solvency:** Developer is solvent and able to pay its debts as they mature.

5.8 **Binding Obligation:** This Agreement constitutes a valid, legal and binding obligation of the Developer, and to the extent permissible by law is enforceable against it in bankruptcy, insolvency, reorganization, moratorium and other laws affecting the enforcement of creditors' rights generally and to general principles of equity, regardless of whether such enforcement is considered in a proceeding in equity or at law.

5.9 **No Facts Known Reducing Estimates of Revenue:** Developer represents and warrants that it knows of no facts that would materially reduce the estimates of revenue attached hereto as **Exhibit "2"**.

ARTICLE 6. VILLAGE REPRESENTATIONS AND WARRANTIES.

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6.1 **Existence/Authority:** The Village is a municipal corporation, duly organized and validly existing under the constitution and laws of the State of Illinois, and the Village has full constitutional and lawful right, power and authority, under currently applicable law, to execute, deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary Village proceedings, findings and actions.

6.2 **Conflict:** The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any breach of, or constitute a default under, any agreement, contract, lease, mortgage, indenture, deed of trust or other instrument to which the Village is a party.

6.3 **No Litigation/Proceedings:** There are no actions, suits or proceedings pending, or to the knowledge of the Village threatened, against or affecting the Village, at law or in equity, or before any governmental authority, which, if adversely determined, would impair the Village's ability to perform its obligations under this Agreement.

ARTICLE 7. CONDITIONS PRECEDENT TO AGREEMENT This Agreement, and all of the Parties' rights, obligations and liabilities under this Agreement, are expressly conditioned upon:

- A. Kohl's execution of the sales tax documentation required by Article 4 herein; and
- B. Kohl's entering into a Lease with Developer for the Property for an initial period of 15 years commencing no later than December 31, 2004 (Lease is attached hereto as **Exhibit "5"** and made a part hereof); and
- C. Kohl's commencing a Kohl's retail department store business open to the public at the LTC Mall on the Property no later than December 31, 2004.

ARTICLE 8. INDEMNIFICATION. Except with respect to matters that arise out of the willful misconduct or gross negligence of the Village, its trustees, agents, contractors and/or employees, as to this particular transaction only, Developer hereby agrees to indemnify, defend and hold the Village harmless from and against all costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including without limitation reasonable attorneys fees and court costs) suffered or incurred by the Village arising from or in connection with the Developer's willful misconduct and gross negligence.

ARTICLE 9. DEFAULT; REMEDIES.

9.1 **Default and Cure:** In the event a Party defaults in the performance of an obligation

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under this Agreement such party shall, upon written notice from the non-defaulting party, proceed promptly to cure or remedy such default or breach within thirty (30) days after receipt of such notice. If such default continues to exist 30 days after notice of default, unless a shorter time period is otherwise provided for in this Agreement, the non-defaulting Party may proceed to secure the specific performance of the covenants and agreements contained herein or it may pursue such other rights and remedies as may then be available to it at law or in equity. If any such default is incapable of being cured within said thirty (30) day period, and the defaulting party commences to cure the default within said thirty (30) day period and proceeds with due diligence, then such party shall not be deemed to be in default under this Agreement.

9.2 Rights Cumulative: Except as otherwise set forth in this Agreement, the rights and remedies of the Parties to this Agreement, whether provided by law or this Agreement, shall be cumulative and the exercise by any party of any one or more of such remedies shall not preclude the exercise by it at the same time or different times of any other remedies for the same default or breach by any other party.

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ARTICLE 10. ENTIRE AGREEMENT. This Agreement, including the exhibits, sets forth all the promises, inducements, agreements, conditions and understandings between the Developer and the Village relative to the subject matter hereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth.

ARTICLE 11. SUCCESSORS AND ASSIGNS. The covenants, terms, conditions, representations, warranties, agreements and undertakings set forth in this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, assigns and legal representatives.

ARTICLE 12. TERM OF AGREEMENT. The term ("Term") of this Agreement shall be 15 years from the opening of Kohl's to the general public unless otherwise satisfied or terminated in accordance with Article 4. Developer shall provide the Village with a letter verifying the opening date of Kohl's within thirty (30) days of Kohl's opening as a retail department store open to the general public on the Property. (Developer's letter is attached as Exhibit "6" and made a part hereof.)

ARTICLE 13. GOVERNING LAW AND VENUE. This Agreement shall be interpreted under and governed by Illinois law (excluding its conflicts of law rules). Any litigation instituted under this Agreement shall be conducted in courts having a situs in Cook County, Illinois.

ARTICLE 14. SUPPLEMENTAL AGREEMENTS. The Parties agree to cooperate in order to execute such supplemental agreements, memoranda and similar documents as may be necessary to implement the terms of this Agreement.

ARTICLE 15. NOTICE. Any notice, request, demand or other communication made in connection with this Agreement shall be in writing and shall be deemed to have been duly given on the date of delivery, if delivered to the persons identified below in person, by courier service or by facsimile copy (with original copy mailed the same day in accordance with the provisions of this Article), or two (2) business days after mailing if mailed by certified mail, postage prepaid, return receipt requested, addressed as follows:

If to the Village:

Village of Lincolnwood
6900 Lincoln Avenue
Lincolnwood, Illinois 60712
Attn: Peter T. Moy
Village President
Fax No. (847) 673-9382

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with copies to:

Village of Lincolnwood
6900 Lincoln Avenue
Lincolnwood, Illinois 60712
Attn: Robert S. Bocwinski
Village Administrator
Fax No. (847) 673-9382

with required copies to:

Joan S. Cherry, Esq.
Johnson and Colmar
300 S. Wacker Drive, Suite 1000
Chicago, Illinois 60606
Fax No. (312) 922-9283

If to Developer:

Simon Property Group (Illinois), L.P.
c/o Simon Property Group
National City Center
115 W. Washington Street
Indianapolis, IN 46204
Attn: James P. Lee, Senior Vice President
cc: Brad Messer, Esq.
Simon Property Group
National City Center
115 W. Washington Street
Indianapolis, IN 46204
Fax 317-263-2297

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ARTICLE 16. SEVERABILITY. If any provision, condition, covenant or other clause, sentence or phrase of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any other provision, condition, covenant or other clause, sentence or phrase contained herein. Notwithstanding the foregoing, if any such invalid provision goes to the essence of this Agreement so that the purposes of the Agreement cannot be fulfilled, then this Agreement shall terminate as of the date of such judgment.

ARTICLE 17. AMENDMENTS; RECORDATION.

17.1 Amendments: This Agreement and any exhibits attached hereto, may be amended only by the written consent of the Parties.

17.2 Recordation: The Parties agree to execute and deliver the original of this Agreement in proper form for recording, and the Parties hereto acknowledge that this Agreement, or a memorandum thereof, will be recorded with the Cook County Recorder of Deeds, at Developer's expense, to evidence the obligations and covenants contained herein, each of which shall, upon such recording, run with and bind the Property until such time as this Agreement has been terminated as provided above, or by written instrument executed by all Parties hereto.

ARTICLE 18. MISCELLANEOUS.

18.1 Time of the Essence: Time is of the essence of this Agreement.

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18.2 Village Professional Fees: Developer shall reimburse the Village, as billed, for the cost of legal and other consulting and professional services as incurred by the Village during the procedures relating to the preparation of this Agreement and any amendments thereto. Developer shall pay all fees for the services rendered herein within 21 days of receipt of an invoice from the Village. Failure to pay any invoiced sum shall constitute a default under this Agreement, which notwithstanding the provisions of Article 9.1, shall be cured by the close of the fifth business day following the expiration of the 30 day cure period provided in Article 9.1 herein. Any unpaid fees shall be deductible by the Village from Developer's share of General Sales Tax Revenue and shall reduce the Annual Payment by the amount of any unpaid fees, prior to any Annual Payment made to Developer.

18.3 Nondiscrimination: The Developer in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public because of race, creed, color, religion, age, sex, marital status, disability, national origin, or status of discharge from the military, nor shall the Developer otherwise commit an unfair employment practice. The Developer has a written policy regarding sexual harassment which complies in all respects with the Illinois Human Rights Act, 775 ILCS 5/2-105 (A)(4) (2001).

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18.4 Mutual Assistance: The Parties agree to do all things that are necessary or appropriate to carry out, and to aid and assist one another in carrying out, the terms of this Agreement and in implementing the Parties' intent, as reflected by the terms of this Agreement.

18.5 Construction: Article, Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

18.6 Effective Date: The Effective Date of this Agreement shall be the date of its execution by the Village.

18.7 Execution; Execution in Counterparts: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, together, shall constitute and be taken as one and the same instrument. Such execution shall take place by September 15, 2002 or within such extension of time as may be granted by the Corporate Authorities of the Village of Lincolnwood by motion.

[This space intentionally left blank.]

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IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below their respective signatures, to be effective as of the Effective Date.

VILLAGE OF LINCOLNWOOD

By: *Peter T. Moy*
Peter T. Moy
Village President

By: *Robert S. Bocwinski*
Robert S. Bocwinski
Village Administrator

Date of Execution: Sept. 6, 2002

ATTEST:

Carol Krikorian
Carol Krikorian
Village Clerk

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Peter T. Moy, Robert S. Bocwinski and Carol Krikorian, personally known to me to be the Village President and Village Clerk, respectively, of the VILLAGE OF LINCOLNWOOD, and personally known to me to be the same persons whose names are subscribed to the foregoing Agreement, appeared before me this day in person and severally acknowledged that as such Village President and Village Clerk, they signed and delivered said Agreement as such Village President and Village Clerk, and caused the corporate seal of said Village to be affixed thereto, pursuant to authority given by the Board of Trustees of said Village, as their free and voluntary act and as the free and voluntary act and deed of said Village, for the purposes therein set forth.

Given under my hand and official seal, this 17th day of September, 2002.

Mary Chis
Notary Public

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SIMON PROPERTY GROUP (ILLINOIS), L.P.,
an Illinois limited partnership

By: CHARLES MALL COMPANY LIMITED PARTNERSHIP,
a Maryland limited partnership, General Partner
By: SIMON PROPERTY GROUP (DELAWARE),
INC., a Delaware corporation, General Partner

By: _____
David Simon, Chief Executive Officer

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

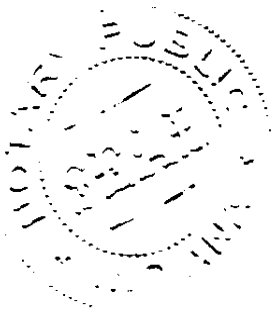
Before me, a Notary Public in and for said County and State, personally appeared David Simon, to me personally known as the Chief Executive Officer of SIMON PROPERTY GROUP (DELAWARE), INC., a Delaware corporation, General Partner of CHARLES MALL COMPANY LIMITED PARTNERSHIP, a Maryland limited partnership, General Partner of SIMON PROPERTY GROUP (ILLINOIS), L.P., an Illinois limited partnership, who acknowledged his execution of the foregoing instrument for and on behalf of said Corporation by authority of its Board of Directors.

Given under my hand and official seal, this 26th day of August, 2002.

Sara Jane Slinker
Notary Public Sara Jane Slinker

21147921

Comm. exp. 8-6-2008



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EXHIBIT 1 PROPERTY LEGAL DESCRIPTION

Lot 5C of the Lincolnwood Town Center Resubdivision of Lots 1 to 8 and Outlot A in the Lincolnwood Town Center Subdivision, being a subdivision of part of the North ½ of Section 35, Township 41 North, Range 13 East of the Third Principal Meridian, as recorded November 2, 1989 as Document No. 89522374.

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EXHIBIT 2
ESTIMATE OF TAX REVENUES
[ATTACHED]

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3/21/2002

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Preliminary Draft for Discussion Purposes Only
 Village of Lincolnwood
 Proposed Kohl's Store
 Fifteen Year Analysis

Estimate of Sales Tax Generation Assumptions:
 Store Square Footage: 101,000
 Annual Sales per Square Foot: \$250
 Subject to 1% Sales Tax
 Annual Sales per Square Foot
 Subject to .05% Sales Tax, assumes Open Merch. sales
 Store Opens: 1-Apr-03
 Inflation Factor: 2.50%

Sharing allocations: (1% tax only, does not include)
 First Tier: home rule (.5%)
 Second Tier: 150,000 to Village
 Third Tier: 100,000 to Project
 50.00% to Village
 50.00% to Project

Calendar Year	Year	Annual Sales Subject to 1%	Annual Sales Subject to .05%	City 1% Tax	Sales Taxes at 1%	First Tier Payments	Amount after First Tier	Second Tier Payments	Amount after Second Tier	To Village 50.00%	To Project 50.00%	1% Tax Total to Village	Present Value to Village	1% Tax Total to Project	Present Value to Project
2002	1	0	0	1.00%	0	0	0	0	0	0	0	0	0	0	0
2003	2	18,837,500	18,937,500	1.00%	189,375	150,000	37,375	39,375	8,812	4,406	4,406	150,000	131,016	39,375	34,392
2004	3	25,881,250	25,981,250	1.00%	258,813	150,000	108,813	100,000	15,243	7,641	7,641	154,406	257,057	104,406	119,918
2005	4	26,528,281	26,628,281	1.00%	265,283	150,000	115,283	100,000	21,915	10,957	10,957	157,641	377,321	107,641	201,737
2006	5	27,191,489	27,191,488	1.00%	271,915	150,000	121,915	100,000	28,713	14,356	14,356	160,957	452,082	110,957	280,648
2007	6	27,871,275	27,871,275	1.00%	278,713	150,000	128,713	100,000	35,681	17,840	17,840	164,356	601,599	114,356	357,049
2008	7	28,568,057	28,568,057	1.00%	285,681	150,000	135,681	100,000	42,823	21,411	21,411	167,840	706,122	117,840	430,434
2009	8	29,282,259	29,282,259	1.00%	292,823	150,000	142,823	100,000	50,143	25,072	25,072	171,411	805,885	121,411	601,088
2010	9	30,014,915	30,014,915	1.00%	300,143	150,000	150,143	100,000	57,647	28,823	28,823	175,072	901,112	125,072	658,127
2011	10	30,764,673	30,764,673	1.00%	307,647	150,000	157,647	100,000	65,336	32,669	32,669	178,823	992,017	128,823	697,644
2012	11	31,533,750	31,533,750	1.00%	315,338	150,000	165,338	100,000	73,221	36,611	36,611	182,669	1,078,801	132,669	756,801
2013	12	32,322,185	32,322,185	1.00%	323,221	150,000	173,221	100,000	81,302	40,651	40,651	186,611	1,161,658	140,651	816,566
2014	13	33,130,188	33,130,188	1.00%	331,302	150,000	181,302	100,000	89,584	44,792	44,792	190,792	1,249,316	144,792	872,819
2015	14	33,958,443	33,958,443	1.00%	339,584	150,000	189,584	100,000	98,074	49,037	49,037	194,937	1,339,456	149,037	926,837
2016	15	34,807,404	34,807,404	1.00%	348,074	150,000	198,074	100,000	106,776	53,388	53,388	203,388	1,437,351	153,388	978,756
2017	16	35,677,589	35,677,589	1.00%	356,776	150,000	206,776	100,000	114,392	57,656	57,656	207,656	1,533,999	157,656	1,033,999
Total					4,184,698	2,250,000	1,934,698	1,439,375	106,776	537,656	537,656	2,637,656	1,457,351	1,827,031	878,756

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Preliminary Draft for Discussion Purposes Only
Village of Lincolnwood
Proposed Kohl's Store
 Fifteen Year Analysis

Village Summary Table

1% Tax Total to Village	Present Value to Village	Home Rule Tax Total to Village	Present Value to Village	Total Tax to Village	Present Value to Village
150,000	191,016	84,688	82,704	244,688	213,720
154,406	257,057	128,406	188,338	289,819	445,395
157,641	377,921	132,641	289,529	290,283	666,850
160,957	482,082	139,957	386,485	298,915	878,547
164,376	601,668	139,356	479,324	303,713	1,080,923
167,840	716,127	142,840	568,278	310,681	1,274,400
171,411	805,883	146,411	653,491	317,823	1,459,376
176,072	901,112	150,072	735,120	325,143	1,636,232
178,823	992,017	153,823	813,316	332,647	1,805,332
182,669	1,078,801	157,669	888,223	340,338	1,967,024
186,611	1,161,659	161,611	959,990	348,221	2,121,639
190,551	1,240,772	165,651	1,028,719	356,302	2,269,481
194,502	1,318,316	169,792	1,094,568	364,584	2,410,884
199,337	1,388,466	174,037	1,157,647	373,074	2,546,103
203,388	1,457,351	178,388	1,218,073	381,716	2,675,423
2,337,656	2,332,343	2,332,343	4,869,889	4,869,889	2,675,423

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EXHIBIT 3
EXECUTED ILLINOIS DEPARTMENT OF REVENUE CONSENT FORM
LETTER OF AUTHORIZATION
[ATTACHED]

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KOHL'S

June 28, 2002

Illinois Department of Revenue
101 West Jefferson Street
Springfield, IL 62794

Re: **Lincolnwood Town Center**
Lincolnwood, Illinois

21147921

Dear Sir or Madam:

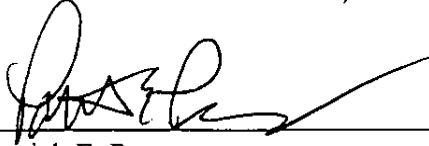
The undersigned is an authorized officer of Kohl's Department Stores, Inc., a Delaware corporation ("Taxpayer") which will be doing business in the Village of Lincolnwood (the "Village") at a development commonly known as Lincolnwood Town Center, 3333 West Touhy Avenue, Lincolnwood, Illinois 60712 (the "Subject Property"). In order to further the development of the Subject Property and the surrounding development and to provide an economic incentive, the Village is utilizing the sales tax revenues derived from the Taxpayer in order to provide certain benefits with respect to such development.

The undersigned Taxpayer hereby authorizes the Illinois Department of Revenue ("IDOR") to release to the Village the monthly amount of Municipal Retailers Occupation Tax (commonly referred to as "Sales Tax") generated by Taxpayer as shown in required filings with the IDOR at the Subject Property commencing no later than December 31, 2004. This authorization shall continue until such time as notice is received from the Village Clerk that all obligations of a certain Agreement date July 15, 2002 with respect to the Subject Property have been discharged or otherwise satisfied Aug.

Very Truly Yours,

KOHL'S DEPARTMENT STORES, INC.

By: _____


Patrick E. Peery
Sr. Vice President - Real Estate

AJS:PEP:ll

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EXHIBIT 4

CERTIFICATION THAT DEVELOPER IS NOT BARRED FROM
CONTRACTING WITH A UNIT OF LOCAL GOVERNMENT AS A
RESULT OF VIOLATION OF EITHER SECTION 5/33E-3 (BID-RIGGING)
OR 5/33E-4 (BID ROTATING) OF THE ILLINOIS CRIMINAL CODE
[ATTACHED]

21147921

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EXHIBIT 4

CERTIFICATION THAT DEVELOPER IS NOT BARRED
FROM CONTRACTING WITH A UNIT OF LOCAL GOVERNMENT AS A
RESULT OF VIOLATION OF EITHER SECTION 5/33E-3 (BID-RIGGING)
OR 5/33E-4 (BID ROTATING) OF THE ILLINOIS CRIMINAL CODE

WHEREAS, a conviction for the offense of bid-rigging or bid rotating bars a person or entity from contracting with a unit of local government, 720 ILCS 5/33 E-3, and E-4 (2001); and

WHEREAS, 720 ILCS 5/33 E-11 (2001) of the Illinois Criminal Code requires bidders and contractors to verify on a form provided by the unit of local government that they are not barred from public contracting due to bid-rigging or bid rotating convictions.

NOW, THEREFORE, IT IS HEREBY CERTIFIED TO THE VILLAGE OF
LINCOLNWOOD that the undersigned,

Simon Property Group (Illinois) L.P.

21147921


is not barred from bidding on or entering into public contracts due to having been convicted of bid-rigging or bid rotating under paragraphs 5/33E-3 or 5/33E-4 of the Illinois Criminal Code.

DATE: August 21, 2002

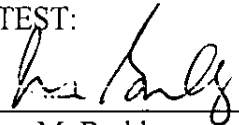
SIMON PROPERTY GROUP (ILLINOIS), L.P., an Illinois
limited partnership

By: CHARLES MALL COMPANY LIMITED
PARTNERSHIP, a Maryland limited partnership, General
Partner

By: SIMON PROPERTY GROUP (DELAWARE),
INC., a Delaware corporation, General Partner

By: 
David Simon, Chief Executive Officer
115 West Washington Street
Indianapolis, IN 46204

ATTEST:


James M. Barkley
General Counsel and Secretary

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EXHIBIT 5
SIMON/KOHL'S LEASE
[ON FILE IN VILLAGE CLERK'S OFFICE]

21147921

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EXHIBIT 6 DEVELOPER LETTER VERIFYING KOHL'S OPENING DATE

[See, Article 12 of the Agreement. Letter to be provided within thirty (30) days of Kohl's opening as a retail store to the general public.]

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 - Article 2 - Developer's Responsibilities
 - Article 3 - Reimbursement Limitation
 - Article 4 - Sales Tax Sharing
 - Article 5 - Developer Representations and Warranties
 - Article 6 - Village Representations and Warranties
 - Article 7 - Conditions Precedent to Agreement
 - Article 8 - Indemnification
 - Article 9 - Default; Remedies
 - Article 10 - Entire Agreement
 - Article 11 - Successors and Assigns
 - Article 12 - Term of Agreement
 - Article 13 - Governing Law and Venue
 - Article 14 - Supplemental Agreements
 - Article 15 - Notice
 - Article 16 - Severability
 - Article 17 - Amendments; Recordation
 - Article 18 - Miscellaneous
-
- Exhibit 1 - Property Legal Description
 - Exhibit 2 - Estimate of Tax Revenues
 - Exhibit 3 - Executed Illinois Department of Revenue Consent Form
 - Exhibit 4 - No Bid-Rigging Certification
 - Exhibit 5 - Simon/Kohl's Lease
 - Exhibit 6 - Developer Letter Verifying Kohl's Opening Date

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