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Doc#: 0512441281
Eugene "Gene" Moore Fee: \$56.00
Cook County Recorder of Deeds
Date: 05/04/2005 12:03 PM Pg: 1 of 17

MTC/ACCM / BK
~~WAB~~
~~WAB~~

This instrument was prepared by and after recording return to:

Peter C. Quigley, Esq.
Community Reinvestment Fund, Inc.
One East Superior Street
Suite 604
Chicago, Illinois 60611

M.G.R. TITLE

This lien is subject and subordinate to the ~~2127, 2508~~ Mortgage recorded as Document Number 0512441279.

Above space for Recorder's Use Only

SECOND MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (SECURING RETURN OF CAPITAL CONTRIBUTION)

THIS SECOND MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT ("Mortgage") is made as of April 13, 2005, by **2550 Wabash Limited Partnership**, an Illinois limited partnership (the "Mortgagor"), to **CRF PROJECTS LLC SERIES 2003-7**, an Illinois limited liability company ("Mortgagee").

RECITALS

- A. 2550 Wabash GP, LLC, an Illinois limited liability company, as the general partner of Mortgagor, (the "General Partner"), and the Mortgagee, have entered into the Agreement of Limited Partnership establishing Mortgagor dated of even date herewith (the "Partnership Agreement").
- B. Pursuant to the Partnership Agreement, the Mortgagee has agreed to make a capital contribution ("Mortgagee's Capital Contribution") in the net amount of One Million Eight Hundred Thousand and No/100 (\$1,800,000.00) to the Mortgagor to be used for the acquisition of the Real Estate (hereinafter defined) and development of (50) residential units upon the Real Estate (the "Project").
- C. The Mortgagor has requested that Mortgagee pay an initial portion of its capital contribution in the amount of \$700,000 ("Mortgagee Initial Capital Contribution") to Mortgagor prior to completion of certain pre-development activities listed on Exhibit C hereto which are: (a) necessary for the Project to proceed with construction and (b) required as conditions to the closing of Mortgagee's investment in the Company (the "Pre-development Events"). To induce Mortgagee to

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execute the Partnership Agreement and to pay Mortgagee's Initial Capital Contribution prior to satisfaction of Mortgagee's closing requirements, the General Partner has agreed in the Partnership Agreement to complete all Pre-development Events in a manner fully satisfactory to the Mortgagee on or before November 1, 2005 (the "Pre-development Completion Date") or by such date after which Mortgagee has granted an extension to the Mortgagee as provided in the Partnership Agreement. As used herein, the term "Pre-development Obligations" means all of the General Partners obligations to complete the Pre-development Events by the Completion Date.

- D. The Partnership Agreement further provides that in the event all Pre-development Obligations are not performed, then the General Partner shall repay to Mortgagee within sixty (60) calendar days after Mortgagee's demand therefor, the entire amount of the Mortgagee Capital Contribution paid or funded by the Mortgagee through such date.
- E. As a further condition to its execution of the Partnership Agreement and payment of the Mortgagee's Capital Contribution, Mortgagee has required that Mortgagor give this Mortgage, creating a second lien on the Mortgaged Property (hereinafter defined), to secure repayment of Mortgagee's Capital Contribution if the Pre-development Obligations are not satisfied and payment of Mortgagee's Preferred Return as defined in the Partnership Agreement.

FOR GOOD AND VALUABLE CONSIDERATION, including the financial accommodations heretofore or hereafter made to Mortgagor by Mortgagee recited in this Mortgage, the receipt of which is hereby acknowledged, **MORTGAGOR HEREBY CONVEYS, GRANTS, MORTGAGES AND WARRANTS TO MORTGAGEE, ITS SUCCESSORS AND ASSIGNS**, the real estate, situated in Cook County, Illinois (the "Real Estate"), legally described on **Exhibit A** attached hereto and incorporated herein;

TOGETHER WITH all buildings, structures and other improvements now existing or hereafter erected on the Real Estate (the "Improvements"), tenements, easements, fixtures, appurtenances and all rights, options and claims, whether at law or in equity, that Mortgagor may now have or hereafter acquire in connection with the Mortgaged Property (as hereinafter defined); all rents, issues, profits, claims and awards in connection with the Mortgaged Property (which are pledged primarily and on a parity with the Real Estate); and all apparatus, equipment and other articles now or hereafter used therein or thereon, including without limitation all such apparatus used to supply heat, gas, air conditioning, water, light, power, ventilation, and refrigeration and to treat or dispose of refuse or waste; all interests of Mortgagor in personal property (tangible or intangible) now or hereafter used or useful in connection with the construction, maintenance and operation of the Real Estate or intended for the use or convenience of tenants, other occupants, or patrons thereof, including, without limitation, all furniture, furnishings, equipment and appliances; all intangible property relating to the Mortgaged Property; all present and future leases or other agreements relative to the occupancy of the Real Estate, and all rights due, payable or accruing under such leases or agreements, together with the right, but not the obligation, to collect, receive, and receipt for all such rents or revenues and apply them to the indebtedness secured hereby and to demand, sue for and recover the same when due or payable (the Real Estate, together with all of the foregoing are hereinafter collectively referred to as the "Mortgaged Property");

FOR THE PURPOSE OF SECURING:

- A. To the extent it has been paid or funded repayment of Mortgagee's Capital Contribution if and when due pursuant to Paragraph 6.3 of the Partnership Agreement, payment of Mortgagee Preferred Return as defined in the Partnership Agreement and all other amounts due hereunder;

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B. Payment of all Protective Advances (as defined in **Section 23** herein) and all other sums advanced by Mortgagee to protect the Mortgaged Property and to enforce its rights under this Mortgage, with interest thereon at the Default Rate (as defined in **Section 27** herein), as the case may be;

C. Performance of Mortgagor's covenants, conditions, obligations and agreements with respect to the Pre-development Obligations, this Mortgage and any other instrument now or hereafter given to evidence or further secure the payment of the Indebtedness (as that term is defined in **Section 1** herein) and any modification, amendment, extension or renewal thereof, (hereinafter referred to at times individually as a "Loan Document" or collectively as the "Loan Documents"); and

D. Costs and expenses incurred by Mortgagee, including attorney's fees and other costs of collection as more fully set forth herein.

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee, its successors and assigns, forever, free from all rights and benefits under and by virtue of, and hereby releasing and waiving all rights under and by virtue of, the homestead exemption laws of the State of Illinois, and for the purposes and uses herein set forth.

Mortgagor hereby agrees, covenants with, represents and warrants to Mortgagee and any purchaser at any foreclosure sale, as of the date hereof and until the Indebtedness is paid in full and all other obligations of Mortgagor under this Mortgage and any of the other Loan Documents are performed in full, as follows:

1. **Payment of Indebtedness.** Mortgagor shall pay, promptly when due, all amounts required to be paid in connection with the Pre-development Obligations and all other amounts, obligations and indebtedness secured by this Mortgage (collectively, the "Indebtedness"), without, and Mortgagor hereby waives all rights that now or hereafter are conferred by statute or otherwise to assert, any right to any demand, counterclaim, offset, deduction or defense.
2. **Title to Mortgaged Property.** Mortgagor has good title to the Mortgaged Property in fee simple. The Mortgaged Property is free and clear of all easements, restrictions, leases, liens and encumbrances whatsoever (and any claim of any other person thereto) except for those encumbrances (the "Permitted Encumbrances") listed on **Exhibit B** attached hereto and made a part hereof. Mortgagor owns and will own all fixtures and articles of personal property now or hereafter used in connection with the Real Estate, except as otherwise specifically consented to by Mortgagee, free and clear of liens and claims. Mortgagor will warrant and defend the title to the Mortgaged Property against all claims and demands.
3. **Care and Use of Mortgaged Property.** Mortgagor shall (a) keep the Mortgaged Property in a good, safe and insurable condition; (b) not commit any waste; (c) not abandon the Mortgaged Property; (d) not impair the value of this Mortgage; (e) refrain from any action and correct any condition which would increase the risk of fire or other hazards to the Improvements; (f) not erect any new Improvements on the Real Estate or demolish or make any material alterations or additions of or to the Mortgaged Property, without the prior written consent of Mortgagee; (g) promptly repair or rebuild any of the Improvements that may become damaged or destroyed, with material and workmanship of at least as good a quality as existed before such damage or destruction; and (i) cause the Mortgaged Property to be operated, maintained and managed in a competent and professional manner.
4. **Compliance with Laws.** Mortgagor shall (a) comply with all requirements of all statutes, rules, regulations, orders, decrees or municipal ordinances and with all other requirements of all federal, state and local governmental and quasi-governmental authorities and agencies (each of the foregoing is herein sometimes referred to as a "Governmental Authority") having jurisdiction over the Mortgaged Property, the use thereof and the conduct of Mortgagor's business with respect thereto (any or all of the foregoing are hereinafter sometimes referred to as the "Governmental Regulations"), (b) not commit any act to be done upon the Mortgaged Property in violation of any such Governmental Regulations; and (c) observe and comply with any conditions and requirements (including without limitation all Governmental Regulations) necessary to preserve and extend any and all rights, licenses,

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permits, zoning variances, special exceptions, non-conforming uses, privileges, franchises and concessions that are applicable to the Mortgaged Property or its use and occupancy.

5. Payment of Taxes and Impositions.

(a) **Impositions.** Mortgagor shall pay, not less than ten (10) days before any penalty or interest attaches, all real estate taxes and assessments (general or special), water charges, drainage charges, sewer charges and all other charges that may be imposed on the Mortgaged Property or any part thereof or interest therein (collectively, the "Impositions") and, at the request of Mortgagee, shall exhibit to Mortgagee official receipts evidencing such payments; provided, however, that if, by law, any such Impositions are payable in installments (or may be so paid at the option of the taxpayer), Mortgagor may pay the same together with any accrued interest on the unpaid balance in installments as they become due and before any cost may be added thereto for nonpayment.

(b) **Mortgage Taxes.** If any Governmental Authority (as defined in Section 4 herein) shall at any time after the date of this Mortgage enact any Governmental Regulation (as defined in Section 4 herein) (i) requiring Internal Revenue or other documentary stamps on this Mortgage or on the Note, or otherwise imposing a tax or assessment upon this Mortgage or the Note or the Indebtedness; (ii) requiring payment of an interest equalization tax with respect to the Indebtedness; (iii) deducting any lien from the value of the Mortgaged Property for the purpose of taxation; (iv) imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor; or (v) otherwise changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the Mortgaged Property, or the manner of collection of taxes, then, Mortgagor, upon demand by Mortgagee, shall pay for such stamps, tax or assessments, or reimburse Mortgagee therefor, provided that if any such payment or reimbursement shall be unlawful or shall constitute usury under applicable law, Mortgagee may at its option, declare the Indebtedness immediately due and payable or require Mortgagor to pay or reimburse Mortgagee for payment of the lawful and non-usurious portion thereof.

6. **Payment of Expenses; No Liens.** Mortgagor shall (a) pay when due all expenses incurred and all claims for labor and materials furnished in connection with the Mortgage Property; (b) keep the Mortgaged Property free from all liens, charges, mortgages, security agreements and encumbrances, other than Impositions not yet due and the Permitted Encumbrances (as defined in Section 2 herein); and (c) exhibit to Mortgagee, upon request, satisfactory evidence of the payment and discharge of any such liens, charges and encumbrances.

7. **No Further Encumbrances.** Except for the Senior Mortgage (as hereinafter defined), Mortgagor shall not, without the prior written consent of Mortgagee, create any mortgage, deed of trust, security interest, or other encumbrance of any kind or priority upon all or any part of the Mortgaged Property, other than Impositions not yet due and the Permitted Encumbrances.

8. **Right to Contest.** Notwithstanding anything in this Mortgage to the contrary, Mortgagor shall have the right to contest the validity (or the applicability to Mortgagor, the Mortgaged Property, the Note or this Mortgage) of any tax, assessment, law, ordinance, lien, charge or encumbrance referred to in Sections 4, 5, 6 or 7 herein of this Mortgage, upon giving Mortgagee timely notice of its intention to contest the same and making and thereafter maintaining with Mortgagee such security as is sufficient in the reasonable opinion of Mortgagee to pay and discharge or to assure compliance with the matter under contest in the event of a final determination thereof adverse to Mortgagor or in the event Mortgagor fails to prosecute such contest as required in this Section. Mortgagor agrees to prosecute any such contest diligently and by appropriate legal proceedings that (a) will prevent the enforcement of the matter under contest and the sale or forfeiture of the Mortgaged Property or any portion thereof or interest therein, (b) will not impair the lien of this Mortgage, and (c) will not interfere with the use or occupancy of the Mortgaged Property or the normal conduct of business thereon. On final disposition of such contest, any security then held by Mortgagee and not required to pay or discharge in full any such liability or to assure compliance with the matter contested shall be returned to Mortgagor. In the event the amount of money or security so deposited with

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Mortgagee is insufficient to pay in full any such liability, Mortgagor shall immediately upon demand pay any such deficiency.

9. **Change in Zoning or Use.** Mortgagor shall not do any of the following, without first obtaining the prior written consent in each instance of Mortgagee which consent shall not be unreasonably withheld or delayed: (a) initiate or acquiesce in any zoning reclassification of the Mortgaged Property; (b) permit any change in the general nature of the occupancy or use of the Mortgaged Property; (c) permit any building or other improvements located on any premises not constituting part of the Mortgaged Property to rely on the Mortgaged Property or any interest therein to fulfill any municipal or governmental requirement; (d) permit any of the Improvements to rely on any premises not constituting part of the Mortgaged Property to fulfill any municipal or governmental requirement; (e) grant or permit the granting of any easements, licenses, covenants, conditions or declarations of use applicable to or binding upon the Mortgaged Property. Any act or omission by Mortgagor which violates any of the provisions of this Section shall be void.

10. **Insurance.** Mortgagor shall provide, maintain and keep in effect at all times the insurance required by the Partnership Agreement.

11. **Intentionally Deleted.**

12. **Assignment of Condemnation Awards.** Subject to the rights of the Senior Lender, Mortgagor hereby assigns to Mortgagee, as additional security, all awards of damage resulting from condemnation proceedings or the taking of or injury to the Mortgaged Property for public use, and the proceeds of all such awards shall be paid to Mortgagee and may be applied by Mortgagee, at its option, after the payment of all of Mortgagee's expenses in connection with such proceedings, including costs and attorneys' fees, to the reduction of the Indebtedness. Mortgagee is hereby authorized, on behalf and in the name of Mortgagor, to execute and deliver valid acquittance for and to appeal from any such award. Any portion of any award remaining after the payments provided for in the preceding sentences shall be paid to Mortgagor or as otherwise ordered by a court of competent jurisdiction. Mortgagor shall immediately notify Mortgagee of any actual or threatened condemnation or eminent domain proceedings and shall give to Mortgagee at any time any additional instruments requested by Mortgagee for the purpose of validly assigning all awards or appealing from any such award.

13. **Subordination of Mortgage to Leases.** At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part, but not with respect to priority of entitlement to insurance proceeds or condemnation awards, to any leases of the Mortgaged Property upon the execution by Mortgagee and recording, in the Office of the Recorder for the county in which the Mortgaged Property is situated, of a unilateral declaration to that effect.

14. **Estoppel Certificate.** Mortgagor shall furnish, within seven (7) days after being so requested by Mortgagee, a written statement, sworn to by Mortgagor or an authorized financial officer or other representative of Mortgagor and otherwise in a form satisfactory to Mortgagee, setting forth the amount of the Indebtedness and the date to which interest (if any), has been paid; stating either that no offsets or defenses exist against the Indebtedness or, if such offsets or defenses are alleged to exist, the nature thereof; and covering such other matters as Mortgagee may reasonably require.

15. **Further Representations, Warranties and Covenants of Mortgagor.** To induce Mortgagee to make the capital contribution secured hereby, in addition to all other covenants, representations and warranties contained in this Mortgage, Mortgagor, to the best of its knowledge, further represents, warrants and covenants, as of the date hereof and until the Indebtedness is paid in full and all other obligations of Mortgagor under this Mortgage or any of the other Loan Documents are performed in full, as follows:

a. **No Event of Default or Violations.** Neither an Event of Default (as defined in Section 21 herein) nor an event which would, with notice or the passage of time or both, constitute an Event of Default has occurred or

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is continuing under any of the Loan Documents. Mortgagor is not in violation of any Governmental Regulations or in default under any agreement which affects it or any of its property; and the use and occupancy of the Mortgaged Property and the execution of and performance of the obligations of Mortgagor under any of the Loan Documents do not and shall not violate any Governmental Regulations or conflict with, be inconsistent with, or result in any default under any of the representations, warranties, covenants, conditions or other provisions of any instrument of any kind to which any of the foregoing is bound or which affects it or any of its property, except as identified in writing to and consented to by Mortgagee.

b. **No Litigation or Governmental Controls.** There are no proceedings of any kind pending or, to the best of Mortgagor's knowledge, threatened (i) against or affecting Mortgagor or the Mortgaged Property; (ii) involving the validity, enforceability or priority of any of the Loan Documents; or (iii) preventing or threatening to prevent the use and occupancy of the Mortgaged Property or the performance by Mortgagor of its obligations under any of the Loan Documents; and there are no rent controls, governmental moratoria or environmental orders presently in existence or, to the best of Mortgagor's knowledge, threatened against or otherwise affecting the Mortgaged Property, except as identified in writing to and approved by Mortgagee.

c. **Financial and Operating Statements.** All financial and operating statements submitted to Mortgagee in connection with the loan secured hereby are true and correct in all respects, have been prepared in accordance with generally accepted accounting principles and fairly present the respective financial condition of the persons to which such statements pertain and the results of their operations as of the respective dates shown thereon. No material adverse changes have occurred in the financial conditions and operations reflected therein since their respective dates, and no additional borrowings have been made since the date thereof, other than any loan secured hereby and any other borrowing previously approved in writing by Mortgagee.

d. **Statements to Mortgagee.** None of the Loan Documents, nor any document furnished to Mortgagee by or on behalf of any party constituting Mortgagor, or any manager or member of any such person, contains any material omission or materially misleading or untrue statement of any fact.

e. **Business Purpose.** Mortgagor recognizes and agrees that the proceeds of Mortgagee's Capital Contribution and the Indebtedness secured hereunder will be used for the purposes specified in 815 ILCS 205/4 of the Illinois Compiled Statutes and constitute a "business loan" within the purview of that Paragraph. The Real Estate is not used or intended to be used for agricultural purposes.

f. **Compliance with Permit Requirements.** All required governmental permits are in effect or will be in effect at commencement of construction of the Project and will remain in effect with respect to the Mortgaged Property; and after the issuance of such permits, the Mortgaged Property, in the use and operation thereof by Mortgagor, and will continue to comply with all such permits.

16. **Security Agreement.** Any and all tangible or intangible personal property and fixtures (the "Collateral") included in the Mortgaged Property are owned solely by Mortgagor and shall be deemed to form a part of the Real Estate. However, to the extent any such Collateral is not so included within the Real Estate, this Mortgage is hereby declared to be a Security Agreement under and subject to the provisions of the Uniform Commercial Code of the state in which the Mortgaged Property is located (the "Code") for the purpose of creating a security interest therein in favor of Mortgagee. Upon the occurrence of an Event of Default under this Mortgage, Mortgagee shall have the option either to proceed with respect to the Collateral pursuant to the appropriate provisions of the Code or to proceed with respect to both the Mortgaged Property and the Collateral in accordance with its rights, powers and remedies with respect to the Mortgaged Property, in which event the provisions of the Code shall not apply. Mortgagor and Mortgagee agree that if Mortgagee shall elect to proceed with respect to the Collateral separately from the Mortgaged Property, ten (10) days notice of the sale of the Collateral shall be reasonable notice, and the reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by Mortgagee shall include, without limitation, reasonable attorneys' fees and legal expenses.

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17. **Mortgagee's Right of Inspection; Further Assurances.** Mortgagor shall (a) permit Mortgagee or its representatives to enter on and inspect the Mortgaged Property at all reasonable times and to inspect and audit all records relating to the Mortgaged Property, and (b) prepare such summaries and reports with respect to the Mortgaged Property as Mortgagee may request. Mortgagor, at its sole cost and expense, shall do such further acts and execute such further documents as Mortgagee may require at any time to better assign and confirm unto Mortgagee the rights now or hereafter intended to be granted to Mortgagee under this Mortgage or any other instrument or Loan Document. Mortgagor hereby appoints Mortgagee its attorney-in-fact and authorizes Mortgagee to execute, acknowledge and deliver in the name of Mortgagor the instruments required by Mortgagee pursuant to this Section 17 herein to the extent permitted by law. This power, being coupled with an interest, shall be irrevocable as long as any part of the Indebtedness remains unpaid.

18. **Mortgagee's Right to Cure.** Upon the occurrence of any Event of Default (as defined in Section 21 herein), Mortgagee may, at its option, in any form and manner and without inquiry into the validity thereof, make any payment or perform any act hereinbefore required of Mortgagor, including but not limited to making full or partial payments on other encumbrances, if any, discharging any tax lien, redeeming all or any portion of the Mortgaged Property from any tax sale, or contesting any tax or assessment. In no event shall such actions by Mortgagee be construed as a waiver of any Event of Default. The amount of all moneys paid for any of the purposes herein authorized, all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and all other moneys advanced by Mortgagee to protect the Mortgaged Property and the lien of this Mortgage shall be additional Indebtedness secured hereby and shall become immediately due and payable without notice, and with interest thereon at the Default Rate.

19. **Indemnification of Mortgagee.** Except as arising out of the intentional or negligent actions of the Mortgagee, Mortgagor shall indemnify and hold Mortgagee harmless from and against any and all liability, loss, cost, damage and expense, including reasonable attorneys' fees, incurred or suffered by Mortgagee in connection with any claim, demand, suit or proceeding (including without limitation any probate or bankruptcy proceeding), or the threat thereof, by reason of this Mortgage, the Indebtedness or any of the other Loan Documents or for the purpose of protecting the lien of this Mortgage or of any other Loan Document, but Mortgagee shall have the right to defend any such suit or proceeding with counsel of its choice at Mortgagor's cost. Mortgagor shall reimburse Mortgagee for all such amounts paid by Mortgagee pursuant to this Section 19 herein immediately upon demand, and all such amounts, until paid, shall be additional Indebtedness secured hereby with interest thereon at the Default Rate (as defined in Section 27 herein).

20. **Mortgagee's Right of Subrogation.** Should all or part of the proceeds of Mortgagee's Capital Contribution, or should any other amount paid out or advanced by Mortgagee, be used directly or indirectly to discharge all or part of any prior lien or encumbrance upon all or part of the Mortgaged Property, then Mortgagee shall be subrogated to such other lien or encumbrance and to any additional security held by the holder thereof and shall have the benefit of the priority of all the same.

21. **Events of Default.** Any of the following shall constitute an "Event of Default" under this Mortgage:

a. **Non-Payment.** A default shall occur, and shall continue for ten (10) days, in the payment when due of any principal, interest or other amount under any of the Loan Documents;

b. **Non-Observance; Non-Performance; False or Inaccurate Representation or Warranty.** A default shall occur in the performance of any other obligation of Mortgagor contained in any of the Loan Documents or any other instrument given as security for payment of the Indebtedness; or any representation, warranty or statement made in any of the Loan Documents or in any other material furnished to Mortgagee by or on behalf of Mortgagor in connection with the Indebtedness secured hereby proves to be false or inaccurate in any material respect as of the date of making or issuance thereof;

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c. **Sale, Transfer or Encumbrance.** Mortgagor, without the prior written consent of Mortgagee, shall (i) in any way alienate, mortgage or further encumber all or any part of the Mortgaged Property or any interest therein, or (ii) be divested of its title thereto or any interest therein in any manner;

d. **Change in Ownership of Mortgagor.** Any change in ownership of Mortgagor (including but not limited to merger, consolidation, dissolution or reorganization respecting Mortgagor or any member of Mortgagor or any transfer of a controlling interest or grant of a security interest in Mortgagor or any manager of Mortgagor) shall occur;

e. **Judgments; Enforcement of Liens.** A judgment shall be entered against Mortgagor which becomes a lien on, any proceedings shall be instituted to enforce any lien or encumbrance against, or a writ of attachment or any similar process shall be issued against all or part of the Mortgaged Property and, within sixty (60) days thereafter, such judgment, proceeding or attachment is not dismissed, stayed on appeal, withdrawn, released, satisfied or vacated;

f. **Default Under Other Loan Documents.** A default shall occur in the observance or performance of any covenant of Mortgagor contained in any deed of trust, mortgage, lease or security agreement relating to the Mortgaged Property or any part thereof, whether junior or senior to the lien of this Mortgage, and such default is not cured within sixty (60) days after notice thereof from Mortgagee to Mortgagor;

g. **Governmental Action.** Mortgagor, any Guarantor (as hereinafter defined) or, if Mortgagor is a partnership, any of its general partners shall be prevented or relieved by any Governmental Authority from performing any material term, covenant or condition of any of the Loan Documents;

h. **Material Adverse Change.** Any material adverse change shall occur in the assets, financial condition, business, operations, affairs or circumstances of Mortgagor, or any sponsor or guarantor (a "Guarantor") of the General Partner's obligations under the Partnership Agreement or any other document executed by the Mortgagor in connection with Mortgagee's investment in Mortgagor (the "Syndication Documents").

i. **Bankruptcy; Insolvency.** Any one of the following events shall occur:

(1) Mortgagor or any Guarantor (i) becomes insolvent, is generally not paying its debts as they become due or admits in writing its inability to pay its debts as they become due; (ii) voluntarily suspends the transaction of business; or (iii) makes a general assignment for the benefit of creditors;

(2) A trustee, receiver or other custodian is applied for or consented to by Mortgagor or any guarantor of all or any portion of the Indebtedness; or, in the absence of such application or consent, is appointed and not discharged within sixty (60) days;

(3) Any bankruptcy, reorganization, debt arrangement, composition, readjustment, dissolution, liquidation or other case or proceeding is commenced under any federal, state or other bankruptcy or insolvency law in respect of Mortgagor or any Guarantor and, if such case or proceeding is not commenced by Mortgagor, it is consented to or acquiesced in by the person or persons against which the same was commenced or remains undismissed for sixty (60) days; or

(4) A writ or warrant of attachment or similar order shall be issued by any court or any Governmental Authority against all or a substantial portion of the property of Mortgagor or any Guarantor.

j. The occurrence of any event that would constitute cause for removal of a Manager under the Partnership Agreement.

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k. A default by Mortgagor, declared by the Senior Lender, continuing beyond all applicable cure periods under the Senior Mortgage and permitting foreclosure under the Senior Mortgage.

22. **Mortgagee's Remedies on Default.** Upon the occurrence of any Event of Default, then:

a. **Acceleration.** The Indebtedness shall, at the option of Mortgagee, become immediately due and payable without demand or further notice, with interest thereon, from the date of the first of any such Event of Default, at the Default Rate (as that term is defined in Section 27 herein).

b. **Foreclosure.** After acceleration, Mortgagee may immediately foreclose this Mortgage. Mortgagee shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 through 735 ILCS 5/15-1706 (the "Act"), to be placed in possession of the Mortgaged Property or, at its request, to have a receiver appointed, and such receiver or the Mortgagee, if and when placed in possession, shall have all rights, powers, immunities, and duties as provided for in Sections 15-1702 and 15-1703 of the Act.

c. **Other Remedies.** Mortgagee shall have the right, at its option and without regard to whether the Indebtedness is declared to be immediately due as provided in Section 22(a) above, either with or without process of law, forcibly or otherwise, (a) to enter upon and take possession of the Mortgaged Property; (b) to expel and remove any persons, goods or chattels occupying or upon the same; (c) to collect or receive all the rents therefrom; (d) to manage and control the same; (e) to lease the same or any part thereof from time to time; and (f) after deducting all reasonable attorneys' fees and all reasonable expenses incurred in the protection, care, maintenance, management and operation of the Mortgaged Property, to apply the remaining net income so collected or received upon the Indebtedness or upon any deficiency decree entered in any foreclosure proceedings.

23. **Protective Advances; Fees and Expenses.** All advances, disbursements and expenditures made or incurred by the Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Act (collectively the "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including without limitation those provisions of the Act referred to below:

a. All advances by the Mortgagee in accordance with the terms of the Mortgage to: (i) preserve or restore the improvements upon the Mortgaged Property; (ii) preserve the lien of the Mortgage or the priority thereof; or (iii) enforce the Mortgage, as referred to in Section 15-1302(b)(5) of the Act;

b. Payments by the Mortgagee of: (i) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (ii) real estate taxes and assessments and all other taxes assessed or imposed upon the Mortgaged Property or any part thereof; (iii) other obligations authorized by the Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act;

c. Advances by the Mortgagee in settlement of any claims asserted by claimants under senior mortgages or any other prior liens;

d. Reasonable attorneys' fees and other costs incurred in connection with: (i) the foreclosure of the Mortgage as referred to in Sections 15-1504(d)(1) and (2) and Section 15-1510 of the Act; (ii) any action, suit or proceeding brought by or against the Mortgagee for the enforcement of the Mortgage or arising from the interest of the Mortgagee hereunder; or (iii) the commencement, prosecution or defense of any other action related to the Mortgage or the Mortgaged Property;

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- e. Mortgagee's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Section 15-1508(b)(1) of the Act;
- f. Reasonable expenses deductible from proceeds of sale as referred to in Sections 15-1512(a) and (b) of the Act;
- g. Expenses incurred and expenditures made by the Mortgagee for any one or more of the following: (i) premiums for casualty and liability insurance paid by the Mortgagee whether or not the Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation imposed by Section 15-1704(c)(1) of the Act of maintaining existing insurance in effect at the time any receiver or mortgagee takes possession of the Mortgaged Property; (ii) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (iii) payments deemed by the Mortgagee to be required for the benefit of the Mortgaged Property, by reason of the exercise by Mortgagee of any of its rights under Section 22 herein, or required to be made by the owner of the Mortgaged Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Property; (iv) shares or common expense assessments payable to any association or corporation in which the owner of the Mortgaged Property is a member in any way affecting the Mortgaged Property; (v) if any loan secured hereby is a construction loan, costs incurred by the Mortgagee for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; (vi) payments deemed by the Mortgagee to be required pursuant to any lease or other agreement for occupancy of the Mortgaged Property; (vii) if the Mortgaged Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof deemed by the Mortgagee to be required to be paid; (viii) if the Mortgagor's interest in the Mortgaged Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; and (ix) if the Mortgage is insured, payments of FHA or private mortgage insurance required to keep such insurance in force.

All Protective Advances shall be so much additional Indebtedness secured by this Mortgage and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the Default Rate. This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Section 15-1302(b)(5) of the Act. All Protective Advances shall, except to the extent, if any, that any of the same are clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in: (i) determination of the amount of the Indebtedness at any time; (ii) the Indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments or orders by the court of any additional Indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purposes; (iii) if the right of redemption has not been waived by this Mortgage, computation of amount required to redeem, pursuant to Sections 15-1603(d)(2) and (e) of the Act; (iv) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act; (v) application of income in the hands of any receiver or Mortgagee in possession; and (vi) computation of any deficiency judgment pursuant to Sections 15-1508(b)(2) and (3) and Section 15-1511 of the Act.

There shall be included in any decree foreclosing the lien of this Mortgage and be paid out of the rents or proceeds of any sale made in pursuance of any such decree in the following order: (i) all costs and expenses of such suit or suits as described in this Section 23 herein with interest as herein provided; (ii) all money advanced by Mortgagee for any purpose authorized in this Mortgage, with interest (if any) as herein provided; (iii) all of the accrued interest (if any) remaining unpaid on the Indebtedness; and (iv) the principal balance of the Indebtedness at such time remaining unpaid. The overplus of the proceeds of the sale, if any, shall then be paid to Mortgagor on reasonable request. In the event that, after legal proceedings are instituted to foreclose the lien of this Mortgage, tender is made of the entire amount of Indebtedness, Mortgagee shall be entitled to reimbursement for expenses incurred in connection with such legal proceedings, and no such suit or proceedings shall be dismissed or otherwise disposed of until such fees, expenses, and charges shall have been paid in full.

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24. **Waiver of Right of Redemption.** Mortgagor acknowledges that the Mortgaged Property does not constitute agricultural real estate, as defined in 735 ILCS 5/15-1201, or residential real estate, as defined in Section 15-735 ILCS 5/15-1219, and, pursuant to 735 ILCS 5/15-1601(b), hereby waives for Mortgagor and all its successors in interest and for any and all persons claiming any interest in the Mortgaged Property, to the maximum extent permitted by law, any and all rights of redemption otherwise available to Mortgagor under the Act.
25. **Intentionally Deleted.**
26. **Mortgagee's Rights Cumulative.** The remedies and rights herein are cumulative and in addition to every other remedy or right now or hereafter existing at law or in equity. No delay in the exercise of, or omission to exercise, any such remedy or right accruing shall impair any such remedy or right or be construed to be a waiver of any Event of Default, nor shall it affect any subsequent Event of Default of the same or a different nature.
27. **Default Interest Rate.** The term "Default Rate" shall mean 5% plus the rate announced from time to time by LaSalle National Bank as its "prime" or "base" rate of interest, but in no event higher than permitted by law.
28. **No Usury.** Nothing contained in this Mortgage or in any of the other Loan Documents or in any transaction related hereto shall be construed or shall so operate either presently or prospectively (i) to require Mortgagor to pay interest in excess of the maximum amount of interest permitted by law to be charged in the case of the Indebtedness, but shall instead be deemed require payment of interest only to the extent of the lawful amount, or (ii) to require Mortgagor to make any payment or do any act contrary to law. Any interest in excess of that permitted by law that Mortgagee may have received in connection with the Indebtedness shall, at the option of Mortgagee, be (a) applied as a credit against the then unpaid balance of the Indebtedness, (b) applied as a credit against any accrued and unpaid interest (if any) on the balance of the Indebtedness (but not to exceed the maximum amount permitted by applicable law), (c) refunded to the Mortgagor or other payor thereof or (d) applied or refunded pursuant to any combination of the foregoing; and neither Mortgagor nor any of other obligors hereunder or under or any note given as additional security for the Indebtedness shall have any action against Mortgagee for any damages whatsoever arising out of the payment or collection of any such interest.
29. **Partial Invalidity; Severability.** If the lien of this Mortgage is invalid or unenforceable as to any part of the Indebtedness or the Mortgaged Property, the unsecured or partially secured portion of the Indebtedness shall be completely paid prior to the payment of the remaining secured or partially secured portions of the Indebtedness. All payments made on the Indebtedness, whether voluntary or not, shall be considered to have been first paid on and applied to the full payment of that portion of the Indebtedness not secured or fully secured by the lien of this Mortgage. If any term, covenant or provision contained any of the Loan Documents shall be determined to be void, illegal or unenforceable to any extent or shall otherwise operate to invalidate any such Loan Document, in whole or part, then such term, covenant or provision only shall be deemed not contained in such Loan Document; the remainder of such Loan Documents shall remain operative and in full force and effect and shall be enforced to the greatest extent permitted by law as if such clause or provision had never been contained therein.
30. **No Discharge of Mortgagor's Liability.** In the event of the voluntary sale or transfer, by operation of law or otherwise, of all or any part of the Mortgaged Property, Mortgagee is hereby authorized and empowered to deal with such vendee or transferee with reference to the Mortgaged Property on the terms or conditions hereof, as fully and to the same extent as it might with Mortgagor, without in any way releasing or discharging Mortgagor from Mortgagor's liability, covenants or undertakings hereunder.
31. **No Impairment of Collateral by Mortgagee's Acts.** Without affecting the liability of Mortgagor or any other person, including without limitation any guarantor under a note (except any person expressly released in writing) for payment of all or any portion of the Indebtedness or for performance of any obligation contained herein, and without affecting the rights of Mortgagee with respect to any security not expressly released in writing, the validity or priority of this Mortgage or the lien created hereby or any note given as additional security for the

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Indebtedness, Mortgagee, at any time and from time to time either before or after the Pre-development Completion Date or the maturity of any note and without notice or consent, may (a) release or partially release any person liable for payment of all or any part of the Indebtedness or for performance of any obligation; (b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the Indebtedness; modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof; (c) exercise, refrain from exercising or waive any right Mortgagee may have; (d) accept additional security of any kind; or (e) release, partially release or otherwise deal with any property, real or personal, securing the Indebtedness, including all or any part of the Mortgaged Property.

32. **Effect of Extensions of Time and Amendments on Junior Liens and Others.** Any person taking a junior mortgage or other lien upon the Mortgaged Property or any interest therein shall take such lien subject to the rights of Mortgagee (a) to amend, modify and supplement this Mortgage, the other Loan Documents or any other document or instrument evidencing, securing or guaranteeing the Indebtedness; (b) to vary the rate of interest and the method of computing the same; (c) to impose additional fees and other charges; and (d) to extend the maturity of the Indebtedness, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien. Nothing contained in this Section 32 herein shall be construed, however, as waiving any provision contained in this Mortgage which provides, among other things, that it shall constitute an Event of Default if all or any portion of the Mortgaged Property or any interest therein shall be sold, conveyed or further encumbered.

33. **Release of Mortgage.** Upon full performance of the Pre-development Obligations or the full payment of all of the Indebtedness at the time and in the manner provided in this Mortgage and in the Partnership Agreement, and provided all covenants and agreements contained in this Mortgage and in the other Loan Documents are kept and performed, this Mortgage shall be null and void, and upon demand therefor following such payment, a release of the Mortgaged Property shall in due course be made by Mortgagee to Mortgagor at Mortgagor's expense.

34. **Governing Law.** The terms and provisions of this Mortgage shall be construed and governed by the laws of the State of Illinois without regard to the rules of conflicts of law of such state.

35. **Addresses for Notices.** All notices, demands, consents, requests, or other communications that are either required or contemplated in connection with this Mortgage shall be in writing, and shall be deemed given to the intended recipient thereof upon the earlier of: (a) actual delivery thereof at the address designated below for such intended recipient; (b) the first business day after deposit with a nationally recognized, reputable commercial overnight courier service with all charges prepaid; (c) when sent by facsimile transmission (with written confirmation of receipt); or (d) the third business day after the deposit thereof at any United States post office with postage prepaid for delivery thereof via certified or registered first class mail, return receipt requested, and in any such case addressed as follows:

If to Mortgagor: 2550 Wabash Limited Partnership
4545 South Ellis
Chicago, IL 60653
Attention: Dwayne T. Lawrence, Manager
2550 Wabash GP, LLC

If to Mortgagee: CRF PROJECTS LLC SERIES 2003-7
One East Superior Street
Suite 604
Chicago, IL 60611
Attention: Nicholas Shapiro

By notice complying with the foregoing provisions of this Section 35 herein, Mortgagor and Mortgagee may from time to time change the above addresses applicable to them for the purposes hereof, except that any such notice shall

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not be deemed delivered until actually received. Copies of notices are for informational purposes only and may be sent by regular mail or in any other manner and the failure to give or to receive copies of notices shall not be deemed a failure to give notice to a party.

36. **Binding Effect; Miscellaneous Definitions.** All provisions and covenants of this Mortgage run with the land and shall inure to and bind the parties hereto and their respective heirs, devisees, representatives, vendees, successors and assigns. The word "Mortgagor" shall include the following persons, whether or not such persons shall have executed the Note or this Mortgage: (i) all persons claiming under or through Mortgagor, (ii) all persons liable for the payment of the Indebtedness or any part thereof, (iii) if Mortgagor is more than one person, each person constituting Mortgagor and (iv) if any constituent person of Mortgagor is a partnership, each of any constituent person's general partners. If the Mortgagor is more than one person, then the representations, warranties and obligations under this Mortgage shall be joint and several and any breach or default thereof by a constituent of Mortgagor is a breach or default by Mortgagor. As used in this Mortgage, the terms "person" or "persons" shall include firms, associations, partnerships (including limited partnerships), limited liability companies, trusts, corporations and other legal entities, including public bodies, as well as natural persons. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

37. **Captions.** The captions or headings at the beginning of any paragraph or portion of any paragraph in this Mortgage are for the convenience of Mortgagor and Mortgagee and for purposes of reference only and shall not limit or otherwise alter the meaning of the provisions of this Mortgage.

38. **Subordination.** Notwithstanding any provision herein to the contrary, this Mortgage is a second mortgage and shall be subject and subordinate in all respects to that certain prior mortgage ("Senior Mortgage") in favor of The Private Bank and Trust (the "Senior Lender") recorded as document number _____ securing repayment of a loan in the maximum principal amount of \$2,122,500.

39. **Other Amounts Secured; Future Advances; Maximum Indebtedness.** Mortgagor acknowledges and agrees that this Mortgage secures the entire amount of the Mortgagee's Capital Contribution, the Preferred Return and interest accrued thereon (if any), regardless of whether any or all of Mortgagee's Capital Contribution is disbursed on or after the date hereof. The lien of this Mortgage shall secure all future advances as if such future advances were made on the date of execution of this Mortgage. Although there may be no indebtedness outstanding, at the time any such advance is made, the lien of this Mortgage, as to third persons without actual notice thereof, shall be valid as to all such indebtedness and future advances from the time this Mortgage is filed for record in the office of the Cook County Recorder of Deeds. The total amount of the Indebtedness secured by this Mortgage may increase or decrease from time to time but under no circumstances shall the total Indebtedness secured hereby exceed the amount of **ONE MILLION EIGHT HUNDRED THOUSAND AND NO/100**-----

No/100 Dollars

~~(\$1,800,000.00)~~ including interest thereon (if any) and any disbursements made for the payment of taxes, special assessments, insurance or other disbursements made pursuant to the terms of this Mortgage

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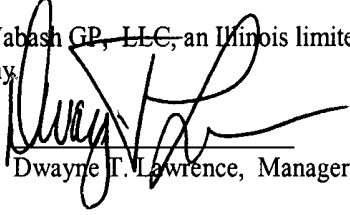
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IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed on the day and year first above written.

MORTGAGOR:

2550 Wabash Limited Partnership, an Illinois limited partnership

By 2550 Wabash GP, LLC, an Illinois limited liability company

By: 
Dwayne T. Lawrence, Manager

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ACKNOWLEDGMENT

STATE OF ILLINOIS)
)
 COUNTY OF COOK) SS.

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Dwayne T. Lawrence, Manager of 2550 Wabash GP, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such respective manager, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary acts, and as the free and voluntary act of 2550 Wabash GP, LLC, an Illinois limited liability company on behalf of which said company has executed the foregoing instrument as general partner and as the free and voluntary act of the partnership known as 2550 Wabash Limited Partnership, an Illinois limited, all for the uses and purposes set forth therein

GIVEN under my hand and notarial seal this 13th day of April 2004.⁵

Gina M Wojak
 Notary Public

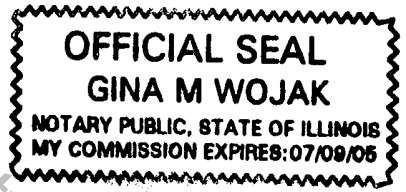


EXHIBIT A

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LEGAL DESCRIPTION

LOTS 6, 7, 8 AND 9 IN ASSESSOR'S DIVISION OF BLOCK 73 OF THE CANAL TRUSTEES' SUBDIVISION OF THE WEST 1/2 OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 17-27-122-021-0000

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EXHIBIT B

Permitted Encumbrances

EXHIBIT C

SCHEDULE OF PRE-DEVELOPMENT EVENTS TO BE COMPLETED PRIOR TO NOVEMBER 1, 2005

1. Approval of all required zoning changes for the Project.
2. Completion of architectural plans and specifications reasonably acceptable to the Mortgagee that have been reviewed and approved by the Building Department of the City of Chicago.
3. Completion of construction bidding, execution of all required construction contracts and subcontracts, and execution of a Contractor's Sworn Statement for the Project and approval of all of the foregoing by the Mortgagee.*
4. Funding of construction contingency in an amount satisfactory to the Mortgagee, which contingency is under the sole and exclusive control of the Partnership.
5. Issuance by the City of Chicago of a building permit or permits such that construction is allowed to commence as contemplated for the Project in the Business Plan and issuance of all other governmental approvals necessary for the Project.
6. Receipt by Mortgagee of insurance certificates evidencing builder's risk insurance, as well as insurance of the general contractor and the architect, which meet the Mortgagee's insurance requirements as set forth in Paragraph 9.11 of the Partnership Agreement.
7. Closing on all construction financing for the Project in amounts and on terms acceptable to the Mortgagee.
8. Commencement of construction of the Project on a substantial and continuous basis.
9. Unless waived in writing by the Mortgagee, all other requirements enumerated on the Mortgagee's Closing Checklist dated as of April 7, 2005 which remained unsatisfied at the time of payment of the Mortgagee's initial capital contribution, the amount of which is set forth in Sub-paragraph 1 of Section F of Exhibit A of the aforementioned Partnership Agreement.

* The Mortgagee shall not unreasonably withhold its consent if the documents are in substantial conformity with the Business Plan (as defined in the Partnership Agreement dated as of April 11, 2005).