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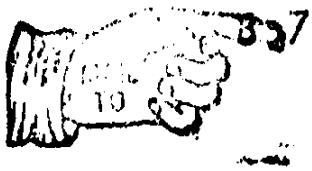

AFTER RECORDING, RETURN TO:
WILLIAM MICELI
ASSISTANT CORPORATION COUNSEL
ROOM 511, CITY HALL
121 NORTH LASALLE STREET
CHICAGO, ILLINOIS 60602

**RYAN GARFIELD COMMUNITY SHOPPING CENTER**

**REDEVELOPMENT AGREEMENT**

This Agreement (the "Agreement") made this 29th day of September, 1987 by and among the City of Chicago, an Illinois municipal corporation (the "City"), Ryan Center Limited Partnership I, an Illinois limited partnership and Matanky Partners XXIX, an Illinois general partnership, (collectively, the "Developer") and Devon Bank not personally but solely as Trustee under Trust Agreement No. 5349 dated May 1, 1987 (the "Trust").



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**RECITALS**

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

B. On October 1, 1965, pursuant to Chapter 67 1/2, par. 91.101 et seq., Illinois Revised Statutes, the corporate authorities of the City designated an area within the City as "Slum and Blighted Area-Garfield LaSalle." A portion of said area remaining a blighted area is generally bounded by Wentworth Avenue on the West, the Rock Island Railroad tracks on the East,

PERMANENT INDEX NOS.: 20-09-419-032-0000, 20-09-420-035-0000, 20-09-420-036-0000, 20-09-420-037-0000, 20-09-420-038-0000, 20-09-420-039-0000, 20-09-421-027-0000, 20-09-421-033-0000, 20-09-421-034-0000, 20-09-421-037-0000, 20-09-421-038-0000

an east-west alley on the North, and Garfield Boulevard to the South, which parcel is legally described on Exhibit A attached hereto and incorporated herein by reference and designated the "Redevelopment Project Area" by an ordinance hereinafter described.

C. The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, Sections 11-74.4-1 et seq., of Ch. 24, Illinois Revised Statutes, as amended (the "Act"), to finance redevelopment in accordance with the conditions and requirements set forth in the Act.

D. To stimulate and induce the acquisition and redevelopment of the Redevelopment Project Area, and pursuant to the Act, the City Council of the City of Chicago ("City Council"), on December 18, 1986, adopted the following ordinances: (1) "An Ordinance of the City of Chicago, Illinois, approving a Tax Increment Redevelopment Plan ("Redevelopment Plan") and Redevelopment Project, for the Ryan Garfield Community Redevelopment Project Area," (2) "An Ordinance of the City of Chicago, Illinois, designating the Ryan Garfield Community Redevelopment Project Area of said City a Redevelopment Project Area pursuant to the Tax Increment Allocation Redevelopment Project Act," (3) "An Ordinance of the City of Chicago, Illinois adopting Tax Increment Allocation financing for the Ryan Garfield Community Redevelopment Project Area," and (4) "An Ordinance authorizing the Department of Revenue to certify and cause to be paid to the City of Chicago, Illinois, an amount equal to the increase in certain taxes paid in a portion of said City".

E. For the purpose of paying a portion of the redevelopment project costs for the Project (hereinafter defined), the City Council, on July 29, 1987 adopted "An Ordinance of the City of Chicago, Illinois, providing for the issuance of not to exceed $2,500,000 Ryan Garfield Tax Increment Revenue Bonds, Series 1987." The proceeds from the sale of the bonds ("TIF Funds") will be used to finance certain redevelopment project costs as described in Exhibit B attached hereto and incorporated by reference herein ("TIF Funded Redevelopment Project Costs"). The improvements and other costs and expenses to be funded by TIF Funds are herein referred to as "TIF Improvements".

F. In addition to financing the TIF Funded Redevelopment Project Costs, and for the purpose of paying a portion of the redevelopment project costs for the Project, the City agrees to pledge an amount ("Corporate Funds") not to exceed $1,255,000 of proceeds from the issuance of $185,000,000 City of Chicago General Obligation Bonds, Refunding and Project Series, 1986, pursuant to an ordinance adopted by the City Council on November 24, 1986, to finance certain redevelopment project costs as described in Exhibit C attached hereto and incorporated herein by reference ("Corporate Funded Redevelopment Project Costs"). The improvements and other costs and expenses to be funded by Corporate Funds are herein referred to as "GO Improvements".

G. In furtherance of the foregoing, Developer intends to develop a shopping center as further described below and outlots including buildings and improvements on a 10-acre parcel of real property (the "Property") situated within the boundaries of the

Redevelopment Project Area, which parcel is legally described in Exhibit D attached hereto and incorporated by reference herein. The Property together with all improvements contemplated pursuant to the Redevelopment Plan adopted by the City Council for the Redevelopment Project Area are herein sometimes referred to as the "Project."

H. Because of the lack of economic growth within the Redevelopment Project Area and in order to stimulate economic development within the area and to promote the creation of jobs for community citizens, Developer intends to enter into an agreement with the Mayor's Office of Employment and Training for the development of a job training program to insure that local residents are capable of filling jobs created by the Project, as further described below, to be funded, in part, by a portion of the TIF Funds. The City intends to place additional job training requirements on the Project as hereinafter provided.

FOR AND IN CONSIDERATION of the mutual covenants and agreements contained below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## I. INCORPORATION OF RECITALS

1.01 The recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section I.

II

**CERTAIN DEVELOPER'S COVENANTS, REPRESENTATIONS AND WARRANTIES**

Developer represents, warrants and covenants to the City as follows:

A. Developer shall be governed by, adhere to and obey any and all applicable federal, state and local laws, statutes, ordinances, rules, regulations and executive orders of general applicability as may be in effect from and after the date of this Agreement.

B. Developer shall proceed diligently to carry out the purchase of the Property and the construction of the Project as required by this Agreement and the Redevelopment Plan.

C. (i) Ryan Center Limited Partnership I ("Ryan Center") is a duly organized and existing Illinois limited partnership in good standing under the laws of the State of Illinois; (ii) Ryan Center has the right and power and is authorized to enter into, execute, deliver and perform this Agreement; (iii) the execution, delivery and performance by Ryan Center, and/or the Trust of this Agreement shall not, by the lapse of time, the giving of notice or otherwise, constitute a violation of any applicable law or breach of any provision contained in Ryan Center's Partnership Agreement, the Trust's trust agreement, or any instrument or document to which either Ryan Center or the Trust is now a party or by which either of them is bound; (iv) Ryan Center, and the Trust shall cause title to the Property to be maintained in

merchantable condition as granted to the Trust free and clear of all liens, claims, security interests and encumbrances except those of the first mortgage lender and second mortgage from the City as provided in Section XII, any liens or encumbrances otherwise permitted pursuant to this Agreement and any exceptions to title approved by the City; (v) Ryan Center is now solvent and able to pay its debts as they mature; (vi) there are no actions at law or similar proceedings which are pending or threatened against Ryan Center, the Trust or the Property which might result in any material and adverse change to the Trust's or Ryan Center's financial condition, or materially affect the Trust's or Ryan Center's assets as of the date of this Agreement; (vii) the Trust, General Partner (as herein-after defined), and Ryan Center have all government permits, certificates, consents (including, without limitation, appropriate environmental clearances and approvals) and franchise necessary to continue to conduct their business and to own or lease and operate each's properties (including without limitation the Property) as now owned or leased by each of them (viii) no default has been declared with respect to any indenture, loan agreement, mortgage, deed or other similar agreement relating to the borrowing of monies to which either the Trust or Ryan Center is a party or by which either of them is bound; (ix) the financial materials furnished by or on behalf of Ryan Center to the City ("Financials") fairly and accurately present the assets, liabilities and financial conditions and results of operations of Ryan Center as of the dates thereof; and (x) there has been no material and/or adverse

change in the assets, liabilities or financial condition of Ryan Center since the dates of the Financials and the date of this Agreement other than as a result of the ordinary and customary conduct of its business.

D. (i) Matanky Partners XXIX ("General Partner") is a duly organized and existing Illinois general partnership in good standing under the laws of the State of Illinois; (ii) General Partner has the right and power and is authorized to enter into, execute, deliver and perform this Agreement, (iii) the execution, delivery and performance by General Partner of this Agreement shall not, by the lapse of time, the giving of notice or otherwise, constitute a violation of any applicable law or breach of any provision contained in General Partner's partnership agreement or any instrument or document to which General Partner is now a party or by which it is bound; (iv) General Partner shall cause title to the Property to be maintained in merchantable condition as granted to the Trust free and clear of all liens, claims, security interests and encumbrances except those of the first mortgage lender and second mortgage from the City as provided in Section XII, any liens or encumbrances otherwise permitted pursuant to this Agreement and any exceptions to title, including cross easements and operational agreements, or as otherwise approved by the City; (v) General Partner is now solvent and able to pay its debts as they mature; (vi) there are no actions at law or similar proceedings which are pending or threatened against General Partner or the Property which might result in any material and adverse change to General Partner's

financial condition and assets as of the date of this Agreement; (vii) no default has been declared with respect to any indenture, loan agreement, mortgage, deed or other similar agreement relating to the borrowing of monies to which General Partner is a party or is bound; (viii) the financial materials furnished by or on behalf of General Partner to the City ("General Partner Financials") fairly and accurately present the assets, liabilities and financial conditions and results of operations of General Partner as of the dates hereof; (ix) there has been no material and/or adverse change in the assets, liabilities or financial condition of General Partner since the dates of the General Partner Financials and the date of this Agreement other than as a result of the ordinary and customary conduct of its business.

E. Developer shall not, without the Department of Economic Development's (the "Department") prior written consent thereto, which the Department may or may not give in its sole discretion, concurrently or hereafter, except as permitted under Section 12.01 or under Section 12.02, (i) grant, suffer or permit a lien, claim or encumbrance upon the Project or any portion thereof, provided that this shall not be construed to preclude, limit or require Department's consent to any lessee mortgaging its leasehold estate; (ii) permit or suffer any levy, attachment or restraint to be made affecting any of the Property; (iii) enter into any transaction not in the ordinary course of its business which materially and adversely affects Developer's ability to pay its debts as such may then exist.

F. Developer shall pay promptly when due all Charges (hereinafter defined) arising or incurred from and after the date hereof with respect to the Project. In the event, at any time or times after the date hereof and prior to the later to occur of issuance of a certificate of completion by Department for the Project or (ii) full payment of the indebtedness evidenced by the TIF Bonds, Developer shall fail to pay the Charges or to obtain discharge of the same, Developer shall so advise Department thereof in writing, at which time the City may, without waiving or releasing any obligation or liability of Developer under this Agreement, in its sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which the City deems advisable; provided, however, in the event Developer notifies the City in writing that it contests a Charge or Charges, and provides satisfactory security to the City commensurate with the Charge or Charges contested, the City shall not make such payments. All sums so paid by the City and any expenses, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable by Developer to the City upon demand. As used herein the term "Charges" shall mean all national, federal, state, county, city, municipal and/or other governmental (or any instrumentality, division, agency, body or department thereof) taxes, real property taxes, levies, water and sewer charges, assessments, special assessments, liens, claims or encumbrances or non-governmental claims or liens upon and/or relating to the Property, and/or Project.

G. (i) The Trust is a duly organized and existing land trust in the State of Illinois; (ii) General Partner is the holder of one hundred percent (100%) of the beneficial interest of the Trust for itself as to the Outlots and as nominee for Ryan Center as to the rest of the Shopping Center and has the sole power of direction over the Trust; (iii) the Trust has the right, power and authority to enter into, execute, deliver and perform this Agreement.

H. All of the information contained in the Redevelopment Plan regarding the Redevelopment Project Area, the Project, the Property and Developer is true, correct and complete to the best of Developer's knowledge.

I. All of the information contained in that Certain Offering Memorandum dated August 28, 1987 City of Chicago, Illinois 10-1/8% $2,310,000 Ryan Garfield Tax Increment Allocation Revenue Bonds, Series 1987 set forth in the sections titled PROJECT and TAX INCREMENT PROJECT: SOURCE AND USE OF FUNDS is true, correct and complete to the best of Developer's knowledge.

J. To the best of the Developer's knowledge the estimate of the tax receipts expected from the Property for the years set forth in Exhibit E hereto are accurate and are incorporated herein by reference.

## III. CITY'S COVENANTS

3.01 Generally. The City represents and warrants that it

has authority under its home rule powers to execute, deliver and perform the terms and obligations of this Agreement, including, without limitation, the right, power and authority to issue and sell the TIF Bonds for payment of the TIF Improvements and to obligate Corporate Funds for the payment of the GO Improvements. The City will not adopt any ordinances or regulations applicable primarily to this Project which would substantially impair the Developer's or the City's ability to fullfill the obligations and covenants herein.

3.02 Assistance to Developer. Department covenants to provide Developer with assistance with respect to obtaining approvals for building permits, driveways, and median cuts, whenever reasonably requested to do so; provided that Developer has complied with all the City's requirements for obtaining same.

3.03 Vacation of Streets and Alley. Upon completion by Developer of the TIF Improvements and GO Improvements, the City shall without cost to Developer provide or secure, or cause to be provided or secured, the closing and vacation of that portion of W. 54th and LaSalle Street within the boundary of the Property and the alley adjacent to the northern boundary of the Property, all as particularly shown on Exhibit F attached hereto and incorporated by reference herein. Notwithstanding the foregoing the cost of removing or refurbishing the utilities, as the case may be, from the aforesaid streets and alley shall be borne by Developer as provided herein.

IV

CONSTRUCTION OF THE SHOPPING CENTER AND OTHER IMPROVEMENTS

4.01 Developer's Covenant to Redevelop. Promptly after the date hereof, Developer shall redevelop the Property in accordance with the Redevelopment Plan, this Agreement, the ordinances adopted with respect to the Redevelopment Project Area referred to in the Recitals (the "Ordinances") and the Site Plan attached hereto as Exhibit G and incorporated herein by reference and shall plan and construct a multi-tenant retail shopping center (the "Shopping Center") consisting of a primary structure containing not less than 95,000 square feet of gross rentable area, parking for 451 cars, security fencing and landscaping and seven (7) required outlots designated parcels 1, 25, 27, 28, 29, 30, and 34, on the Site Plan ("Required Outlots"), aggregating a minimum of approximately seventeen thousand five hundred (17,500) square feet of gross leasable retail, service or office space and the Optional Outlots as hereinafter provided. Developer may also develop as part of the Shopping Center four (4) optional outlots designated as Parcels 26, 31, 32, and 33, on the Site Plan ("Optional Outlots"), aggregating as much as approximately seventeen thousand five hundred (17,500) square feet of gross leasable retail, service or office space. The planning, construction and development of the Shopping Center as more particularly described in Exhibit H shall be consistent with (A) the Redevelopment Plan, (B) the Ordinances, (C) the addendum to the City's application for Urban Development Action Grant (the

"Developer's Proposal") and in accordance with the plans and specifications to be prepared by Developer and approved by Department as provided in this Section IV.

4.02 Time For Commencement and Completion of Improvements. Developer shall commence construction of the TIF Improvements and GO Improvements within six (6) months after the date of this Agreement. Except as otherwise provided in this Agreement, Developer shall complete construction of the Shopping Center and the Required Outlots, the TIF Improvements and the GO Improvements within eighteen (18) months after the date hereof. Within eighteen (18) months after the date hereof, Developer shall either a) complete construction or b) landscape to Department's reasonable satisfaction the Optional Outlots. For purposes of this section "landscape" shall mean Developer has graded the vacant Optional Outlots to the finished grade of the Shopping Center and has sodded said outlots with grass, which Developer shall be responsible for maintaining.

4.03 Compliance With Laws. The Shopping Center, the TIF Improvements and GO Improvements shall be constructed in accordance with the requirements of this Agreement and shall be in conformity with all applicable laws, ordinances and regulations.

4.04 Plans and Specifications. Prior to commencing construction of the Shopping Center, the TIF Improvements or the GO Improvements, Developer shall cause to be delivered to Department for review and approval complete construction documents containing working drawings and specifications ("Plans

and Specifications") for such improvements. Developer shall cause the Shopping Center, the TIF Improvements, and the GO Improvements to be constructed in accordance with the respective Plans and Specifications approved by Department. The Plans and Specifications to be prepared by Developer shall conform to the Site Plan and the Redevelopment Plan as amended from time to time, and all applicable state and local laws, ordinances and regulations. Any amendment to any of the Plans and Specifications or change in the Site Plan must be submitted by Developer to the Department for approval, which approval, shall not be unreasonably withheld or delayed. Developer may simultaneously submit Plans and Specifications to Department and the City Building Department.

4.05 Time for Submission of Plans and Specifications. The time within which Developer shall submit to the Department its Plans and Specifications for a) the Shopping Center; b) TIF; and c) GO Improvements shall, in any event, not be later than thirty (30) days from the date hereof.

4.06 Time for Submission of Corrected Plans and Specifications. Except as provided in subsection 4.07, the time within which Developer shall submit any new or corrected Plans and Specifications shall not be later than fifteen (15) days after the date Developer received written notice from Department of Department's rejection of any of the Plans and Specifications referred to in the last such notice.

4.07 Maximum Time for Approved Plans and Specifications. The time within which Developer shall submit Plans and

Specifications which conform to the requirements of Department shall not be later than fifteen (15) days after the date Developer receives written notice of City's first rejection of the original Plans and Specifications submitted to it by Developer.

4.08 Time for Department Action. The time within which Department may reject Developer's Plans and Specifications or reject any change in the Plans or Specifications or the Site Plan, shall be fifteen (15) days after the date of Department's receipt of said Plans and Specifications or notice of such change.

4.09 Limited Applicability of Department's Approval. Any approvals made by Department of the Plans and Specifications and the Site Plan are for the purposes of this Agreement only and do not affect or constitute approvals required for building permits or approvals required pursuant to any other ordinance of the City nor does any approval by Department pursuant to this Agreement constitute approval of the quality, structural soundness or the safety of the Shopping Center and other improvements. However, the City agrees to assist the Developer in expeditiously obtaining approvals for building permits, driveways, and median cuts, in accordance with Paragraph 3.02 of this Agreement.

4.10 Time for Submission of Evidence of Equity, Capital and Mortgage Financing. Developer shall submit evidence to the Commissioner of Economic Development as to a commitment for equity capital and a commitment for financing from Boulevard Bank NA for a first mortgage construction loan of not less than

$4,700,000.00 no later than the day preceding the date the TIF Bond proceeds are disbursed.

V

CERTIFICATION OF COMPLETION

Promptly after completion of the construction of each of the following: (a) the Shopping Center, (b) the TIF Improvements and (c) the GO Improvements, in accordance with this Agreement, Department shall furnish Developer with an appropriate instrument so certifying. Each certification by Department shall be a conclusive determination of satisfaction and termination of the covenants in this Agreement with respect to the obligations of Developer and its successors and assigns to construct or cause to be constructed the Shopping Center, the TIF Improvements or the GO Improvements, as the case may be. The certification shall be in such form as will enable it to be recorded. Upon written request by Developer for a certificate of completion, Department shall within thirty (30) days after receipt of the same provide Developer either with a certificate of completion or a written statement indicating in adequate detail, how Developer has failed to complete the construction in conformity with the Redevelopment Plan or this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of Department, for Developer to take or perform in order to obtain the certification. If Department requires additional measures or acts of Developer to assure compliance, Developer shall resubmit

a written request for a certificate of completion upon compliance with Department's response. Nothwithstanding anything to the contrary herein contained, Developer may request separate certificates of completion for each of the Outlots which when issued will be a conclusive determination of the completion of such Outlot and Developer's obligation to construct same. A separate certificate of completion will not be issued for an Optional Outlot until it has been developed as commercial or retail space, or the Shopping Center has been completed and the Optional Outlots have been landscaped as defined herein.



## VI

## UTILITY CONNECTIONS AND PERMIT FEES

6.01 Utility Connections. The City hereby agrees that Developer shall have the right to connect all on-site water lines, sanitary and storm sewer lines constructed on the Property to City utility lines existing on the Property or near the perimeter of the Property, provided that Developer complies with all requirements of general applicability promulgated by the City for such connections.

6.02 Permit Fees. The City agrees that Developer shall be obligated to pay, in connection with the development of the Shopping Center, only those building, permit, engineering, tap on, and inspection fees that are assessed on a uniform basis throughout the City and are of general applicability to other property within the City.

VII

**PERFORMANCE BOND**

Developer shall require the general contractor for the TIF Improvements, and the GO Improvements to be bonded to the extent it actually engages in construction work in excess of Two Hundred Thousand Dollars ($200,000) or more. In addition, Developer shall require that each and every Major Construction Subcontract, as herein defined, for the TIF Improvements and the GO Improvements be bonded for performance with the City being shown as obligee. A "Major Construction Subcontract" is any contract or subcontract for an amount of Two Hundred Thousand Dollars ($200,000) or more. In addition, the City recognizes that in order to ensure the participation of minority subcontracts as required by this Agreement, and to facilitate the hiring of local residents the bonding requirements recited herein may be waived with the approval of Department which approval shall not be unreasonably withheld. Bonds required by this Section shall be issued by sureties having a AA rating or better using American Institute of Architects' forms No. A311 or its equivalent with the City being shown as obligee or additional obligee.

VIII

TIF IMPROVEMENTS

AND GO IMPROVEMENTS

8.01 **Developer Authorized To Construct Certain TIF Improvements and GO Improvements.** In order to further the development of the Redevelopment Project Area, the City hereby authorizes Developer to cause the TIF Improvements which are outlined in Exhibit B, and the GO Improvements which are outlined in Exhibit C, to be constructed in accordance with this Agreement and the Plans and Specifications approved by the City pursuant to Section IV at cost not to exceed the TIF Funded Redevelopment Project Costs set forth in Exhibit B for the TIF Improvements and the Corporate Funded Redevelopment Project Costs set forth in Exhibit C for the GO Improvements.

8.02 **Bid Requirement**. Prior to entering into an agreement with a general contractor, Developer will have solicited bids from all qualified general contractors eligible to do business with the City maintaining an office within the City's corporate limits and will select the contractor submitting the lowest bid who can complete the TIF Improvements and GO Improvements in such a manner and in accordance with such a timetable so as to not delay the Project or increase the costs of the Project. The City shall have the right to inspect all bids submitted and shall have final approval over the selection of the contractor. The contract shall conform to the guidelines prescribed by the Purchasing Agent of the City of Chicago for city purchasing

contracts and provide for payment in accordance with this Agreement and the Bond Ordinance with respect to the TIF Funds. Nothing herein contained shall be construed to permit construction to commence before the Plans and Specifications for the work are completed and approved by Department as provided in this Agreement. Developer shall incorporate into the contract with the contractor all obligations contained in this Agreement regarding construction of the TIF Improvements and GO Improvements and shall require the contractor to include all such requirements in each subcontract.

8.03 **TIF Improvements to be Completed by City**. Notwithstanding the foregoing, the City has reserved certain TIF Improvements to be constructed by the City. A complete schedule of these TIF Improvements is contained in Exhibit B attached hereto. The TIF Improvements to be constructed by the City described in Exhibit B shall be paid for from TIF Funds as they are allocated to these specific improvements in Exhibit B. The City recognizes that in order for the Developer to perform as required by this Agreement, all TIF Improvements and GO Improvements must be completed in accordance with the timetable delineated herein. Therefore, the City will complete all the improvements identified in Exhibit B to be completed by the City by May 31, 1988.

8.04 **Costs of TIF Improvements**. The parties anticipate that the TIF Funds will be sufficient to pay for the cost of the TIF Improvements. If the costs of the TIF Improvements to be completed by Developer are in excess of the amount specifically

allocated for such improvements as set forth in Exhibit B, Developer shall be fully responsible for, and shall hold the City harmless from all costs of completing the TIF Improvements in excess of the TIF Funds. If any portion of the TIF Improvements are completed, or anticipated to be completed at a cost which is less than the amount listed on any line item contained in Exhibit B, the excess savings may be applied to other TIF eligible Redevelopment Project Costs with the express approval of Department. Notwithstanding the foregoing, Developer shall not be required to pay the City additional funds if the cost to the City of constructing the TIF Improvements listed on Exhibit B as improvements to be completed by the City exceed the amount allocated for such improvements on Exhibit B.

8.05 **Sewer and Water** The sewer and water system improvements described in Exhibit B as TIF Improvements are improvements being made to the City's utility systems, and shall in every respect remain the property of the City and shall be maintained and operated by the City until the City has vacated certain streets and alley as provided in subsection 7.2 above. After such vacation, the water and sewer utility systems within the boundaries of the Property shall become the property of the Developer and shall be maintained and operated by Developer and the Trust.

8.06 **Traffic and Street Lights**. Notwithstanding anything contained in this Agreement to the contrary, the City shall prepare the Plans and Specifications for and construct the traffic lights and street lights which are designated as TIF

Improvements to be completed by the City. The cost of such design and constructions shall be paid for from the TIF Funds specifically allocated for said TIF Improvements and are included in the TIF Funded Redevelopment Project Costs.

8.07 **Funding for GO Improvements.** The sum of One Million Two Hundred Fifty Five Thousand Dollars ($1,255,000.00) shall be appropriated from the City of Chicago's issuance of $185,000,000 City of Chicago General Obligation Bonds, Refunding and Project Series, 1986 as provided in the Recitals for the purpose of paying for the GO Improvements. If Developer fails to complete the GO Improvements (except as may have been reduced pursuant to Section 11.08) in accordance with the terms hereof at a cost not in excess of the Corporate Funds, Developer shall be fully responsible for, and shall hold the City harmless from, all costs of GO Improvements in excess of the Corporate Funds.

## IX

## USE OF ONE CONTRACTOR.

Notwithstanding anything to the contrary herein contained, and provided that Developer otherwise complies with the terms of this Agreement, Developer may bid the TIF Improvements, (exclusive of the TIF Improvements undertaken by the City as described in Section 8.03), GO Improvements and/or the Shopping Center on a stipulated lump sum basis as part of one contract.

X

**FAILURE OF DEVELOPER TO COMPLETE TIF IMPROVEMENTS AND GO IMPROVEMENTS**

If Developer fails to complete the TIF Improvements or the GO Improvements (except as may have been reduced pursuant to Section 11.08), after notice and after expiration of all cure periods as provided for herein, then in such event the City shall have the right to complete said improvements and to pay for the costs thereof out of the TIF Funds or the Corporate Funds, as appropriate. If, and to the extent, the aggregate cost to the City of completing the TIF Improvements or GO Improvements exceeds the amount of TIF Funds or Corporate Funds, as the case may be, available for such purpose, Developer agrees to pay to the City all costs and expenses expended by the City to complete the TIF Improvements in excess of the TIF Funds and the GO Improvements in excess of the Corporate Funds.



XI

**DISBURSEMENT AND OBLIGATIONS**

11.01 **TIF Bonds**. The parties agree that tax increment allocation financing implemented in accordance with the terms and provisions of the Act shall be the primary source of funding for the TIF Funded Redevelopment Project Costs, provided however, Developer shall pay the amount to which the actual TIF Funded

Redevelopment Project Costs described in Exhibit B exceed the TIF Funds. However, the TIF Improvements reflected in Exhibit B are general descriptions and estimates for the completion of the words described therein. Developer, with the City's prior approval, may reallocate dollars between and among line items or modify said improvements as may be desirable or necessasry to complete the TIF Improvements at a cost no greater than the net proceeds realized from sale of the TIF Bonds. Provided that Developer substantially completes the Shopping Center as provided herein and in the Plans and Specifications, the City shall not unreasonably withhold its consent to a reduction in the scope of the TIF Improvements so that the costs thereof do not exceed the net proceeds realized from the sale of the TIF Bonds. The City agrees to issue TIF Bonds in an amount not to exceed Two Million Five Hundred Thousand Dollars ($2,500,000.00) on terms set forth in the Bond Ordinance. Said obligations shall be secured by the funds deposited, from time to time, by the Cook County Treasurer in the tax increment special allocation fund created pursuant to Section 11-74.4-8 of the Act (the "Incremental Taxes Fund") and as specified under the terms of the Bond Ordinance. City agrees to apply the proceeds realized upon sale of TIF Bonds to the extent available to the costs and in the manner set forth in the Bond Ordinance provided. In no event shall the TIF Bonds be or become general obligations of the City nor shall the cost of the TIF Improvements be paid from any funds other than the TIF Funds or Developer's own funds. The City agrees to provide such authorizations as may be necessary to obtain the necessary

information from the Illinois Department of Revenue to determine sales for revenue figures generated from the Shopping Center.

11.02 **Corporate Funds**. The parties further agree that the City has made available the Corporate Funds, as described in Section IX hereof and within the provisions of the City of Chicago Municipal Code, which shall be for funding for Corporate Funded Redevelopment Project Costs, provided however, Developer shall pay the amount to which the actual Corporate Funded Redevelopment Project Costs exceed the Corporate Funds. The City agrees to authorize the use of the Corporate Funds to the extent available to pay the costs of the GO Improvements, set forth in Exhibit C attached, in the manner herein provided. The parties agree that Corporate Funds available for the costs and obligations incurred in undertaking and completing the GO Improvements shall be paid from a segregated account designated by the City for the Ryan-Garfield Redevelopment Project. In no event shall said costs or obligations become the general obligations of the City nor shall the City be responsible for payment thereof in excess of the designated Corporate Funds. No funds other than the Corporate Funds or Developer's own funds are available to pay for GO Improvements. However, the GO Improvements reflected in Exhibit C are general descriptions and estimates for the completion of the work described therein. Developer with the City's prior approval may reallocate dollars between and among line items or to modify said improvements as may be desirable or necessary to complete the GO Improvements at a cost no greater than the designated Corporate Funds. Provided

that Developer substantially completes the Shopping Center as provided herein and in the Plans and Specifications, City shall not unreasonably withhold its consent to a reduction in the scope of the GO Improvments so that the costs thereof do not exceed the designated Corporate Funds.

11.03 **Depositary of Funds**. The City, with consent of the underwriter from the TIF Bonds, shall deposit the TIF Bond proceeds and the Corporate Funds in City accounts which it shall establish at Boulevard Bank NA ("Depositary"). Said accounts shall be under the control of the City as provided for by this Agreement, the Bond Ordinance, and the TIF bond underwriter.

11.04 **Disbursement of Funds**. The parties, including the general contractor, shall enter into a construction escrow agreement (the "Escrow") in form and substance customarily used by the City for projects similar in nature to the Project and reasonably acceptable to the City and Developer with a title insurance company reasonably acceptable to both parties (the "Escrowee"). The Escrow shall allow Developer to present the Escrowee with invoices and accompanying documentation approved for payment by the Commissioner of Economic Development, or by the First Deputy Commissioner of Economic Development. Payment from the Escrow shall be made as follows: Not less than ten (10) business days prior to any date upon which Developer desires payment or reimbursement hereunder to be deposited by the City or the Depositary into the Escrow, Developer shall submit a written request therefore to the First Deputy Commissioner of Economic Development setting forth the amount for which payment or

reimbursement is sought and, if applicable, Developer's estimate of the percentage of completion of each TIF Improvement or GO Improvement with respect to which payment or reimbursement is sought. Each request for payment or reimbursement shall be accompanied by 1) Developer's sworn statement recommending payment, 2) the City's Construction Consultant's sworn statement recommending payment, 3) Escrowee's Pending Disbursement Endorsement showing that title to the Redevelopment Project Area are free and clear of all liens, claims, and encumbrances except those permitted pursuant to Section XII, and 4) such bills, contracts, invoices, contractors' sworn statements, lien waviers and other evidence as Department and the Escrowee may reasonably require of the parties to evidence Developer's right to payment or reimbursement hereunder. Department shall have ten (10) business days after receipt of any request for payment or reimbursement accompanied by the documentation requested, to approve and authorize Depositary to fund the Escrow; provided, however, in the event Department disputes the request or has a problem with the work performed in respect thereto, Department shall specify the disputed or problem in detail in writing within ten (10) business days after receipt of any request for payment or reimbursement, and the request or the work shall be corrected prior to approval of said request for payment. No funds shall be disbursed from the Escrow until the Escrowee is prepared pursuant to Section 11.08 to issue its mechanics lien endorsement in form satisfactory to the City and Developer insuring that there are no liens, claims or encumbrance affecting the Project Area except as

permitted pursuant to Section XII. No funds in excess of the amount budgeted for each of the TIF Improvements and GO Improvements described in Exhibit B shall be disbursed unless (1) Developer satisfies Department that other and sufficient funds are available with which to complete the remaining improvements or (2) Developer, with the sole consent of City as provided in Sections 11.02 and 11.03, reduces the scope of said improvements to conform with remaining funds.

11.05 **Amount of Payment for TIF Improvements and GO Improvements.** Developer or the contractor completing the work shall be paid the applicable amount set forth in Exhibits B and C for the TIF Improvements and the GO Improvements. Payments to Developer shall be made based upon the percentage of each item of work satisfactorily completed as determined in the sole judgment of Department, provided that there shall be withheld from each such payment an amount equal to 10% of such payment until such time as 50% of the TIF Improvements or GO Improvements are completed, as the case may be, and 5% of each such payment thereafter. The retained amount shall be held by the City or Depositary as the case may be, and shall be paid upon completion of the TIF Improvements or GO Improvements, as the case may be, in accordance with this Agreement.

11.06 **Amount of Payment for Redevelopment Planning and Bond Issuance Costs.** City agrees to pay from the TIF Funds the redevelopment planning and bond issuance costs set forth in Exhibits B and C upon receipt of statements from the firms and/or individuals therein listed evidencing that such costs have been

paid by Developer or that such costs are currently due and owing. Developer represents and warrants that all planning costs incurred were incurred before December 18, 1986, when the City adopted tax increment financing and created the Redevelopment Project Area.

11.07 **Warranties and Representations**. Each request for payment or reimbursement submitted by Developer or contractor to Department shall have incorporated therein a warranty by Developer and the contractor that there are no material defects in design, materials or workmanship and that all construction has been performed in a good and workmanlike manner in accordance with the plans and specifications relating thereto, and in compliance with all applicable laws, ordinances and regulations. Notwithstanding the foregoing, Department may withhold its approval of any request for payment or reimbursement if, and so long as, Developer or contractor is in material default of any related material agreement with the City in connection with the redevelopment of the Shopping Center or any other portion of this Agreement or the Redevelopment Plan.

11.08 **Title Insurance**. At Developer's expense, Developer shall provide the City with a commitment for an owner's title insurance policy naming the City as insured in a nominal amount covering the portion of the Redevelopment Project Area owned by the City or upon which TIF Improvements or GO Improvements are to be constructed. Said commitment shall be later dated and appropriately endorsed at the time of each request for payment or reimbursement.

XII

DEVELOPER'S OBLIGATION TO OBTAIN OTHER FINANCING

12.01 Bank Financing. Developer agrees to procure no less than $4,700,000.00 from Bank or another lender acceptable to the City for the construction of the Shopping Center as contained in a loan commitment dated July 15, 1987, or as may otherwise be acceptable to the City.

12.02 UDAG Financing. Developer agrees to obtain a loan from the City of Chicago in the sum of $935,000, if and when the proceeds of Urban Development Grant No. B-84-AA-17-0257, ("UDAG") are made available to the City pursuant to terms reasonably acceptable to Developer, the City and the U.S. Department of Housing and Urban Development, for the construction of certain Project improvements.

12.03 Equity Financing Developer agrees to contribute a minimum in equity funds for the Project as may be required under the UDAG, by the Bank, or as may be necessary to complete the Project.

12.04 Default Any default under the financing referred to in sections 12.01 or 12.02 above shall be a material default under this Agreement.

XIII

**PERFORMANCE**

13.01 **Time of the Essence**. Time is of the essence of this Agreement.

13.02 **Delay**. For the purposes of any of the provisions of this Agreement, neither the City nor Developer, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather condition such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or quantity for an abnormal duration, tornadoes or cyclones and other like event or condition beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its respective obligations hereunder; nor shall either the City or Developer be considered in breach of, or default in its obligations under this Agreement in the event of any delay resulting from the conduct of any judicial, administrative or legislative proceeding or caused by litigation or proceedings challenging the authority or right of the City to act under the Redevelopment Plan, any of the Ordinances, or perform under this Agreement or challenging the authority of the City to vacate any streets or alleys as herein provided. The City shall diligently contest any such proceedings and any appeals therefrom. The City may settle a contested

proceeding at any point, so long as the settlement results in the City's ability to perform pursuant to this Agreement and so long as any such settlement does not impose additional obligations on Developer or increase its obligations under this Agreement. Provided, however, that the party seeking the benefit of the provisions of this Section 13.02 shall, within ten (10) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, and of the cause or causes thereof, and requested an extension for the period of the enforced delay.

13.03 **No Waiver by Delay**. Any delay by either party to this Agreement in instituting or prosecuting any actions or proceedings or otherwise enforcing its rights hereunder shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that the City and the Developer should still hope otherwise to resolve the problems created by the default involved). No waiver in fact made by the City with respect to any specific default by Developer should be considered or treated as a waiver of the rights of the City with respect to any other defaults by Developer or with respect to the particular default except to the extent specifically waived in writing. No waiver in fact made by the Developer with respect to any specific default by City should be considered or treated as a waiver of the rights of the Developer with respect to any other defaults by City or with respect to the particular default except to the extent specifically waived in writing.

13.04 **Breach**. Upon a breach of this Agreement, either of the parties in any court of competent jurisdiction, by any action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained or may be awarded damages for failure of performance or both. Before any failure of any party of this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the satisfaction of the complaining party within thirty (30) days of the giving of such notice; provided, however, with respect to City's obligation to authorize disbursements pursuant to Section 11.04, no breach of this Agreement may be found to have occurred if a) disbursement has been authorized within ten (10) days of the receipt of such notice or b) notice has been given to the Developer of a dispute in the request for payment or work performed within said ten (10) days. In addition to the foregoing, in the event of a breach of this Agreement by Developer or The Trust, the City may suspend disbursement of TIF Funds and GO Funds until such breach is cured with the applicable cure period.

13.05 **Grant of Mortgage to Secure Performance** Within seven (7) days after the execution of this Agreement, Trustee shall deliver to the City a mortgage ("mortgage") on the Property in form reasonably acceptable to both parties, which mortgage shall

be subordinate to the lien of the mortgages referred to in Section XII and any other lien incurred or mortgage necessary to the completion of the Shopping Center, the Optional Outlots and the Required Outlots. The mortgage shall further provide that if prior to completion of the Shopping Center, TIF Improvements and GO Improvements (for purposes of this Section, collectively referred to as the "Improvements") as certified by Department:

A. Developer (or successor in interest) shall default in or violate its obligations with respect to the construction of the Improvements (including the nature and the dates for the beginning and completion thereof) or shall abandon construction work and any such default, violation, or abandonment, shall not be cured, ended, or remedied within three (3) months, if the default is with respect to the date for completion of the Improvements after written demand by the City to Developer to do so; or

B. Developer (or successor in interest) fails to pay all Charges when due, or places on the Property any encumbrance or lien unauthorized by this Agreement, or suffers any lien or attachment to be made, or any materialmen's or mechanic's lien, or any other unauthorized encumbrance or lien to attach to the Project and such Charges shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to the City made for such payment, removal, or discharged, within ninety (90)

days after written demand by the City to the Developer to do so; provided, however, such written demand shall not be unreasonably made where Developer has a bondafide dispute respecting the above; or

C. There is, in violation of this Agreement, any transfer of the Property or any part thereof, or any change in the ownership of or interest in Developer or the Trust or with respect to the identity of the parties in control of Developer or the degree thereof, except for syndication of limited partnership interests in Ryan Center or as otherwise provided in this Agreement, and such violation shall not be cured within sixty (60) days after written demand by the City to Developer;

then the City shall have the right to foreclose the lien of the Mortgage and take possession of the Property; the mortgage shall permit partial releases for all Outlots and the Shopping Center for which a certificate of completion has been issued, and the mortgage shall be released by the City upon its issue of certificates of completion for all the Improvements.

13.06 Resale of Reacquired Property; Disposition of Proceeds. Upon the vesting in the City of title to the Property or any part thereof pursuant to a foreclosure of the Mortgage as provided in subsection 13.05, the City shall, pursuant to its responsibilities under State law, use its best efforts to resell the Property or part thereof (subject to any prior mortgage liens

and leasehold interests) as soon and in such manner as the Department shall find feasible and consistent with the objectives of such law and of the Redevelopment Plan to a qualified and responsible party or parties, as determined by the Department, who will assume the obligations of making or completing the improvements or such other improvements as shall be satisfactory to the Department and in accordance with the uses specified for such Property or part thereof in the Redevelopment Plan. Upon such resale of the Property, the proceeds thereof shall be applied:

1. First, to reimburse the City for all costs and expenses incurred by the City, including but not limited to salaries of personnel, in connection with the foreclosure, recapture, management, and resale of the Property or part thereof (but less any income derived by the City from the Property or part thereof in connection with such management); all Charges, and water and sewer charges with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by the City, an amount, if paid, equal to such taxes, assessments, or charges (as determined by the City assessing official) as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or

liens due to obligations, defaults, or acts of Developer, its assignees, successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Property or part thereof; and any amounts otherwise owing the City by Developer and its successor or transferee; and

2. Second, to reimburse Developer, its assignee, successor or transferee, up to the amount equal to (a) the sum of the purchase price paid by it for the Property (or allocable to the part thereof) and Developer's cash actually invested in acquisition, zoning, or financing, or in making any of the improvements on the Property or part thereof, including but not limited to legal, zoning, and all other acquisition and financing costs and fees, less (b) any funds or gains or income withdrawn or made by it from or received pursuant to the Agreement or the Property.

Any balance remaining after such reimbursements shall be retained by the City as its property.

13.07 No Merger Upon Reentry. No provision of this Agreement is intended to or shall be merged by reason of the revisiting of title in the City unless the City records a declaration of intention to cause such a merger.

XIV

**INDEMNITY**

Developer hereby agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with (i) the failure of Developer to perform its obligations under this Agreement, (ii) the failure of Developer or any contractor to pay contractors, subcontractors, or materialmen in connection with construction of the TIF Improvements, the GO Improvements or the Shopping Center, or (iii) a material misrepresentation or omission in the Offering Memorandum or Redevelopment Plan which is the result of information supplied or omitted by the Developer or by agents, employees, contractors, or persons acting under the control or at the request of the Developer, or (iv) the failure of Developer to redress any misrepresentations or omissions in this Agreement or any other agreement relating hereto.



XV

**INSURANCE**

Developer agrees to provide the City with all policies of insurance which the City may reasonably require in forms, coverage, companies and amounts satisfactory to the City,

including without limitation, comprehensive liability, workmen's compensation and builder's risk insurance coverage naming the City as an additional insured on said policies.

By execution of this Agreement, the City agrees that the insurance policies presently in force and effect, provided by the Developer as requested by Bank and as to which the City is named as a co-insured are satisfactory to the City under this Agreement.



## XVI

## JOB TRAINING

Developer agrees to enter into an agreement with the Mayor's Office of Employment and Training ("MET") to cause the development and implementation of a job training program to insure that local citizens are available and trained for jobs created by the Project and a first source agreement to insure preferential hiring of local residents for permanent employment at the Project. MET shall in turn enter into an Agreement with the Third Ward Partnership to provide said employment and training services. In particular, the agreement shall set forth the rights and obligations of the parties thereto and shall fully disclose the nature of the financial arrangement between the parties including any interest the Third Ward Partnership may have in the Project or in any of the Outlots. The cost for implementing said program is specified in Exhibit B. Based upon the appropriate applications furnished by the Third Ward

Partnership and Developer to MET, additional funding of up to $65,000 may be available from MET. Developer agrees to incorporate into all tenant leases a requirement that every tenant will use its best efforts to employment residents of the City of Chicago residing in an area bounded by Morgan Street to the West, St. Lawrence Street to the East, 63rd Street to the South, and 43rd Street to the North, at all levels of employment, from the lowest through the very top management positions within the Shopping Center and will comply with the provisions of Section XXIX of this Agreement.



## XVII

## DEPARTMENT'S RIGHT TO AUDIT DEVELOPER'S BOOK AND RECORDS

Developer agrees that the Department shall have the right and authority to review and audit, from time to time, Developer's books and records relating to the Project, including without limitation, the TIF Improvements and the GO Improvements (including Developer's loan statements, general contractor's sworn statements, general contracts, subcontracts purchase orders, waivers of lien, paid receipts and invoices) in order to confirm that the TIF Funds and the Corporate Funds are or have been expended for purposes of undertaking the TIF Improvements, GO Improvements or other purposes permitted under the Act. Developer further agrees to incorporate the Department's right to audit books and records as described herein relating to all contracts entered into by Developer with respect to this Agreement or the Project.

XVIII

REAL ESTATE TAXES/TAX INCREMENT FINANCING

18.01 Acknowledgement of Taxes. The Trust and Developer agree:

(i) that for the purposes of this Agreement the total minimum anticipated assessed value ("Minimum Anticipated Assessed Value") of the respective portions of the Property and the Project are shown on Exhibit I attached hereto and incorporated by reference herein for the years as noted on that Exhibit and

(ii) that the real estate and sales taxes anticipated to be generated and derived from the respective portions of the Property and the Project pledged from the incremental tax revenues described in the Bond Ordinance are estimated as shown in Exhibit E attached hereto.

18.02 No Exemption. With reference to the Property and the Project or any part thereof, neither the Trust nor Developer nor any assignee or transferee of, or successor in interest to, either the Trust or the Developer, shall for any year that the Ryan Garfield Tax Increment Redevelopment Area Plan and Project as provided in the Ordinances, as may be amended from time to time, is in effect apply for, seek, or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970).

18.03 No Reduction. Neither the Trust nor Developer nor any agent, representative, lessee, tenant, assignee or transferee

of, or successor in interest to, either the Trust or Developer, shall for any year referred to in Exhibit E attached hereto directly or indirectly, initiate, apply for, or seek to lower the assessed values below the amount of the Minimum Anticipated Assessed Value as shown in Exhibit I while any portion of the TIF Bonds are outstanding.

18.04 No Objections. Neither the Trust nor Developer, nor any agent, representative, lessee, tenant, assignee or transferee of, or successor in interest to, either Developer or the Trust, shall for any year referred to in Exhibit E or for any year that the Ryan Garfield Tax Increment Redevelopment Area Plan and Project is in effect, object to or in any way seek to prevent, on procedural or any other grounds, the filing of any underassessment complaint with, and full participation in all related proceedings before, the Cook County Assessor or the Cook County Board of Appeals, by either the City, or by any taxpayer.

18.05 Understanding of the Parties. The foregoing covenants in subsections 18.02, 18.03 and 18.04 above shall be construed and interpreted as an express agreement by Developer with the City that a major incentive inducing the City to enter into the arrangements and transactions described in this Agreement is to increase the assessed valuation of and the general real estate taxes payable with respect to the Property and Project. This Agreement and the Exhibits attached hereto may be used by the City, in the City's discretion, as admissions against Developer's interest in any proceeding.

18.06 Covenants Running with Land. The parties agree that the restrictions contained in this Section 18 are covenants running with the land and a memorandum thereof shall be recorded with the Cook County Recorder of Deeds. These restrictions shall be binding upon the Trust and Developer, and their agents, representatives, tenants, lessees, successors, assigns or transferees from and after the date hereof; provided, however that the covenants shall be null and void if and when the TIF Bonds have been fully redeemed or paid. The Trust and Developer agree that any sale, conveyance or transfer of title to all or any portion of the Property from and after the date hereof shall be made subject to such covenants and restrictions. The Trust and Developer further agree, that to the extent either of them is obligated to pay any portion of the real estate tax bills for the Property, they shall pay such taxes promptly before the date of delinquency of such tax bills.

## XIX

## CITY FEES

The City shall be paid a fee of $100,000 out of TIF Funds as a TIF Funded Redevelopment Project Cost to reimburse various departments of the City for the cost of administration and monitoring of the construction of the TIF Improvements, and legal and other expenses incurred by the City with respect to the TIF Improvements. The Department shall be paid a fee of $30,000 out of Corporate Funds as a Corporate Funded Redevelopment Project

Cost to reimburse Department for the cost of administration and monitoring of the construction of the GO Improvements.

XX

**RESTRICTIONS**

Developer agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, that Developer and it successors and assigns shall:

A. develop the Property in accordance with the uses set forth herein and in the Redevelopment Plan; and

B. not discriminate upon the basis of race, color, religion, sex or national origin, in the sale, lease or rental, or in the use or occupancy of the Property or any improvements located or to be erected thereon, or any part thereof.

XXI

**TRANSFERS AND ENCUMBRANCES**

21.01 Prohibition Against Transfers. Prior to the issuance of a certificate of completion for the TIF Improvements, GO Improvements and the Shopping Center, neither the Trust nor Developer shall make, create or suffer to be made any sale, transfer, assignment, or conveyance with respect to this Agreement or the Property, or any part thereof or any interest

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## IX

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therein except with respect to syndication of limited partnership interests in Ryan Center, including, without limitation, any transfer or assignment of the beneficial interest in the Trust or any part thereof, or contract or agree to do any of the same, without the prior written approval of the Department, which approval may be unreasonably withheld, except Developer may mortgage the Property as provided in Section XII and may sell the Outlots in accordance with Section XXII.

21.02 Limitation Upon Encumbrance of Property Prior to the issuance of a certificate of completion for the TIF Improvements, GO Improvements and the Shopping Center, neither Developer, the Trust nor any successor in interest to the Property or the beneficial interest in the Trust shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Property, except as specifically permitted in this Agreement.



## XXII

## SALE OF OUTLOTS

It is understood and agreed by the parties that Developer desires to sell each of the Required and Optional Outlots for individual development by their respective purchasers as retail, office or service establishments. The City is willing to agree to consent to such Outlot sales provided that Developer complies with the following procedures:

A. At least twenty one (21) days prior to any contemplated

sale, Developer shall furnish to the City copies of the proposed sales contract, an economic disclosure and financial statement for the proposed purchaser and a detailed description of the proposed Purchaser's development of the Outlot and such other documentation as the Department may reasonably request. The Department shall have the right to approve both the prospective purchaser and the proposed development of the Outlot, which approval shall not be unreasonably withheld. If the Department does not approve of either the proposed purchaser or the proposed development, the Department shall so notify Developer within said twenty one (21) day period in writing specifically identifying objections to said plan or proposed purchaser with recommendations for remedying said objections.

B. Each conveyance of an Outlot shall be expressly subject to and such purchaser shall assume Developer's obligations with respect to the terms, covenants and conditions of this Agreement as they affect the Outlot being purchased, including, without limitation, Developer's obligation hereunder to construct improvements thereon as described in Exhibits G and H and Developer's covenants regarding Real Estate Taxes/Tax Increment Financing set forth in Section XVIII, Job Training set forth in Section XVI, Equal Opportunity Employment set forth in Section XXIX, and Restrictions set forth in Section XX.

C. Prior to the conveyance of an Outlot for which no certificate of completion has been issued, Developer and the City shall enter into an escrow agreement ("Escrow Agreement") with an escrowee mutually agreeable to both parties hereto providing that

upon the Department's sole direction, the Net Profit (as hereinafter defined) from the sale of such Outlot shall be released to Developer upon the issuance of a certificate of completion for the improvements to be developed on the Outlot. If the Outlot is not developed as proposed and approved within thirty six (36) months after the sale, the City shall give Developer a three (3) month notice period during which Developer shall have the right to commence to develop said Outlot as previously approved by the City or to develop a plan for submission to the Department for expending the Net Profits (and interest earned thereon) for a purpose in accordance with the Redevelopment Plan. If the Department does not approve such plan, the Department shall inform Developer in writing stating specific objections to said plan. Developer shall have three (3) months to submit a revised plan for expending the Net Profits. If the Department does not approve such revised plan, the City may disburse the Net Profit to City. However, the parties agree that it is the preference of City to use Net Profits derived from the Project to support and enhance the Project. Therefore, the Department will make a good faith effort to work with Developer in developing an acceptable plan whereby Net Profits may be invested in the Project and will only be disbursed to City solely as a last resort.

D. Upon conveyance of an Outlot, any Net Profit derived from the sale shall be deposited into the Escrow Account to be held as provided in subparagraph C above. Simultaneously with the closing of such sale, Developer shall furnish the Department

with an affidavit setting forth the amount it believes is its Net Profit as hereinafter defined and the calculation thereof together with all evidence necessary to back up its expenditures. The Department shall have the right to audit such calculations and shall have the sole right to determine the amount of Net Profit.

E. As used herein "Net Profit" shall mean the difference between (1) Developer's purchase price (exclusive of TIF and GO moneys), of the Outlot, as computed on a gross square foot basis in proportion to the purchase price of the Property as whole, including any costs reasonably necessary to acquire and hold said Outlot including, for example, financing costs, interest costs, legal fees, title costs, and survey work ("Costs"), and (2) the sale price of said Outlot, less any Costs reasonably incurred in connection therewith. Broker's commissions and fees to individuals actually brokering a transaction shall be permitted as Costs if said commissions and fees are paid in an amount customarily paid in the brokerage industry. The City hereby agrees it has approved the sale of three of the Outlots as described herein: (a) Developer may sell Outlot No. 25 as shown on the Site Plan to Shell Oil Company for the development of a Shell gasoline service station and car wash. Developer shall receive its Costs upon the closing of the sale and the Net Profits shall be held in Escrow as described herein; (b) Developer may sell Outlot No. 1 as shown on the Site Plan to the Third Ward Partnership at Developer's Cost as defined herein; provided, however, the transfer and development of Outlot No. 1

shall be subject to this Agreement, and (c) Developer shall sell Outlots 27, 28, 29, 30 and 34 as shown on the Site Plan to the Ryan Center Limited Partnership II, an Illinois Limited Partnership (RCLP II) of which the general partner of Developer is also the general partner; provided, however, the transfer and development of Outlots 27, 28, 29, 30 and 34 shall be subject to this Agreement. Developer has agreed to give the Third Ward Partnership 45% of the profits derived from the sale of a portion of Outlot No. 34 which the Third Ward will re-invest in the Ryan Center Limited Partnership I. Therefore, the City agrees that for the purpose of determining "Costs" and "Net Profits" as related to the RCLP II Outlots, the value of the interest being assigned to the Third Ward, as determined by an independent appraiser, shall be included as a Developer's Cost.

## XXIII

## COVENANTS RUNNING WITH THE LAND

It is intended and agreed, that except as otherwise provided, all covenants provided in sections in this Agreement on the part of the Trust or Developer to be performed or observed shall be covenants running with the land binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by the City, and any successor in interest to the Property, or any part thereof, and the owner of any other land (or of any interest in such land) in the Redevelopment Project Area which is subject to the land use requirements and restrictions of the Redevelopment Plan.

XXIV

AMENDMENT

This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties by the adoption of an ordinance or resolution of the City approving said amendment, as provided by law, and by the execution of said amendment by the parties or their successors in interest.

XXV

NO OTHER AGREEMENTS

Except as otherwise expressly provided herein, this Agreement supersedes all prior redevelopment agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.

XXVI

CONVEYANCE OF FOUNDATIONS TO THE CITY

Developer shall cause the Southland Corporation to convey to the City by bill of sale all buildings, building foundations, any improvements, building debris and construction material located below, at and above grade level of the Propety at the date hereof.

XXIX

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XXXI

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