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REDEVELOPMENT AGREEMENT PERTAINING
TO LINCOLN MALL
REDEVELOPMENT PROJECT AREA
OF THE VILLAGE OF MATTESON, ILLINOIS

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THIS AGREEMENT is made as of the 8th day of November, 1994 by and between the VILLAGE OF MATTESON, Cook County, Illinois, an Illinois municipal corporation (the "Village"); Sears, Roebuck and Co., a New York corporation (the "Retailer"), and Public Employees' Retirement Association of Colorado, an association created under the laws of the State of Colorado (the "Mall Owner").

- PREAMBLE -

DESIGNATION OF REDEVELOPMENT

PROJECT AREA

A. Adoption and Qualification as a TIF District: By Ordinances No. C875-0994, C876-0994 and C876-0995, passed September 19, 1994, the Village approved the Redevelopment Plan, designated the area legally described on Attached Exhibit "A" as the Redevelopment Project Area, adopted tax increment allocation financing therein, and directed that the Tax Increment shall be allocated to and, when collected, shall be paid to the Village Treasurer who shall deposit said funds in the STAF for the purpose of paying Redevelopment Project Costs. The Village has determined and found that but for the adoption of the Redevelopment Plan the Redevelopment Improvements could not be undertaken by the Retailer.

The Parking Parcel, which is legally described on Exhibit "B", and the Redevelopment Project Area, which is legally described on Exhibit "A", currently are a single tax parcel. As

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more fully provided in Section 2.3 herein, after the Retailer purchases the two parcels, the Retailer will file or cause to be filed a petition requesting the division of this single tax parcel into two separate tax parcels, which shall both be legally described as the Parking Parcel, on Exhibit "B" and the Redevelopment Project Area, on Exhibit "A".

B. Objectives: The reasons for establishing the Redevelopment Project Area are to eliminate the blighted conditions in the Redevelopment Project Area described in that certain "Report Memorandum, dated January 31, 1994, Village of Matteson, Proposed Lincoln Mall Tax Increment Financing District Redevelopment Plan" of Chicago Associates Planners and Architects and to guide the private development project in order to achieve the following objectives:

General Redevelopment Objectives

- Reduce or eliminate those conditions which qualify the Redevelopment Project Area as a Blighted Area. Section III of said Report Memorandum, Blighted Improved Area Conditions Existing in the Redevelopment Project Area, describes these conditions.
- Strengthen the economic well-being of the Redevelopment Project Area and the Village by increasing business activity, taxable values, and job opportunities.
- Encourage a high-quality appearance of buildings, rights-of-way, and open spaces and encourage high standards of design.
- Create an environment which stimulates private investment in new construction, expansion, and rehabilitation.
- Achieve development which is integrated both functionally and aesthetically with nearby existing development, and which contains a complementary mix of uses within the Redevelopment Project Area.

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- Prevent the recurrence of blighting conditions thereby preserving and enhancing the value of property within and without the Redevelopment Project Area.
- Implement and achieve the Redevelopment Project Area General Objectives as set forth in the Redevelopment Plan.

Specific Redevelopment Objectives

- To develop a viable retail shopping site for a department store similar to other comparable retail stores operated by the Retailer in the South Suburban Chicago Metropolitan Area located in similar shopping centers.
- To develop a commercial site that complements adjacent commercial areas.

C. Incentives: To achieve the aforementioned objectives, and to realize the resultant benefits, the Village will provide specific incentives (as hereinafter described) to the Retailer.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and representations hereinbefore, and hereinafter, set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITION OF GENERAL TERMS

For the purpose of this Agreement the following terms shall have the meanings as hereinafter indicated:

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A. **"Act"**: Shall mean the Tax Increment Allocation Redevelopment Act found at 65 ILCS 5/11-74.4-1 of the Illinois Compiled Statutes, including all amendments thereto.

B. **"Agreement"**: Shall mean this Agreement, as amended or supplemented at the time in question.

C. **"Base Year"**: Shall mean the calendar year 1997 in which the real estate taxes for the year 1996 are due and payable.

D. **"Counsel for the Mall Owner"**: Shall mean Rudnick & Wolfe, 203 North LaSalle Street, Suite 1800, Chicago, Illinois, phone 312/368-4000.

E. **"Counsel for Retailer"**: Shall mean O'Keefe, Ashender, Lyons & Ward, 30 North LaSalle Street, Suite 4100, Chicago, Illinois 60602, phone 312/621-0400.

F. **"Counsel for the Village"**: Shall mean Keck, Mahin & Cate, 77 West Wacker Drive, 49th Floor, Chicago, Illinois, 60601-1693, phone 312/634-7700.

G. **"Force Majeure"**: Shall mean in respect to the specific Retailer's obligations hereunder set forth in Sections 2.1 and 3.8(a) any delay or interference caused by damage or destruction by fire or other casualty, strikes, embargoes, shortages of material, unusually adverse weather, acts of God, power outages, government restrictions and court orders or other events or conditions beyond the reasonable control of the Retailer without its fault or negligence.

H. **"Mall Owner"**: Shall mean Public Employees' Retirement Association of Colorado, an association created under

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the laws of the State of Colorado, currently located at 1300 Logan Street, Denver, Colorado 80203.

I. **"Parking Parcel":** Shall mean the tract of land located at 600 Lincoln Mall Drive containing approximately 11.358 acres in Rich Township, Cook County, Illinois, described in Exhibit "B" which is used for parking spaces and roadways for the Redevelopment Project Area.

J. **"Redevelopment Improvements":** Shall mean the rehabilitation, repair and remodeling and fixturing of the existing structure located in the Redevelopment Project Area, being the vacant Wieboldt's Department Store, including, but not limited to, roof and wall repairs, fire safety and water system repairs, electrical preparation and installation of equipment and construction of storefront entrances and facades, all as set forth in the general plans and specifications therefor.

K. **"Redevelopment Plan":** Shall mean that certain document entitled "Village of Matteson, Cook County, Illinois Lincoln Mall Redevelopment Project Area Redevelopment Plan and Project" dated February 2, 1994 and approved by the Village Board of Trustees on September 19, 1994 by Ordinance C875-0994.

L. **"Redevelopment Project Area":** Shall mean the tract of land located at 600 Lincoln Mall Drive containing approximately 1.97 acres in Rich Township, Cook County, Illinois legally described on attached Exhibit "A" and designated as such by Village Board of Trustees on September 19, 1994 by Ordinance C876-0995.

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M. **"Redevelopment Project Costs"**: Shall mean certain costs incurred by the Village and the Retailer. Redevelopment Project Costs incurred by the Village shall include those costs incurred by the Village related to the establishment, amendment, defense, if required, of the Redevelopment Project Area, adoption of tax increment financing for the Redevelopment Project Area, and the reasonable costs of the Village for the administration of the Redevelopment Project Area and the STAF. The Retailer's Redevelopment Project Costs include Retailer's Reimbursable Costs incurred or paid for by or on behalf of the Retailer. Soft costs include such costs as planning and architectural fees, legal fees and engineering fees.

N. **"Retailer"**: Shall mean Sears, Roebuck and Co., a New York corporation, currently located at 3333 Beverly Road, Hoffman Estates, Illinois 60179.

O. **"Retailer's Reimbursable Costs"**: Shall mean those hard and soft costs which have been incurred or paid by or on behalf of the Retailer in respect to Redevelopment Improvements, a portion for which the Retailer is entitled to reimbursement pursuant to Article III of this Redevelopment Agreement. Said Retailer's Reimbursable Costs do not include the value of the underlying real property or the existing structure. Said Costs are to be described in a Sworn Statement of the Retailer in the form attached hereto as Exhibit "C." Said Statement shall be supported by such evidence as the Village reasonably requires to verify the accuracy of said Retailer's Reimbursable Costs.

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P. **"STAF"**: Shall mean the Special Tax Allocation Fund established by the Village in connection with the Redevelopment Project Area to receive deposits and distribute payments of Tax Increment, in accordance with the Act. The STAF shall be a segregated account of the Village, and the funds therein shall be used only for the purposes described in this Agreement.

Q. **"Tax Increment"**: Shall mean that portion of the real estate taxes which are attributable to the increase in the equalized assessed value of real property in the Redevelopment Project Area over and above the initial equalized value of real property in the Redevelopment Project Area legally described in Exhibit "A." The initial equalized value of real property in the Redevelopment Project Area is the last current equalized assessed value of real property in the Redevelopment Project Area which existed prior to the adoption of tax increment financing by the Village as determined by the Cook County Clerk in accordance with the Act. The real property in the Redevelopment Project Area, Exhibit "A," will be reflected in a separate tax parcel.

R. **"Village"**: Shall mean the Village of Matteson, a non-home rule municipal corporation located in Cook County, Illinois.

ARTICLE II

CONSTRUCTION OF REDEVELOPMENT IMPROVEMENTS

2.1 **Retailer to Construct Redevelopment Improvements and Establish a Retail Facility**: This Agreement is contingent on the Retailer purchasing the real property in the Redevelopment

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Project Area prior to December 31, 1994 or such extension of time as shall be granted by the Village to the Retailer in writing. In consideration of the incentives provided by the Village as hereinafter described, the Retailer shall at its sole cost and expense construct, or cause to be constructed on the Redevelopment Project Area, the Redevelopment Improvements. The Redevelopment Improvements shall be built in accordance with the requirements of federal, state and local laws, rules and regulations, and plans for the Redevelopment Improvements shall be submitted to the Village for approval by December 31, 1994. The Village shall review and respond to the plans submitted within a reasonable period of time. The Redevelopment Improvements, the cost of which is herein described as Retailer's Reimbursable Costs, including both the hard and soft costs associated therewith, will have a total cost of not less than \$7,000,000 without regard to the value of the underlying real property or the existing structure. Subject to Force Majeure, the Retailer shall complete the Redevelopment Improvements no later than August 1, 1995. Also, subject to Force Majeure, the Retailer shall occupy the Redevelopment Improvements and initiate retail sales prior to October 15, 1995.

In the event the Retailer is unable to comply with any of the dates set forth in this Paragraph, then the Retailer shall not be in default under this Agreement until the Village gives written notice that performance of the specifically named condition is expected of the Retailer within 30 days of the date of the notice, in which event the Retailer shall complete the performance

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of the specified condition within 30 days of the date of the notice.

Subject to the other provisions of this Section and to the provisions of this Agreement:

(a) Retailer covenants that it will, from and after the date it opens its retail store for business in the Redevelopment Improvements continuously operate or cause to be operated in the Redevelopment Improvements a retail store, for ten (10) years from the date of the Retailer's opening its store to the public in the Redevelopment Project Area, under the name of "Sears" or such other name as Retailer is operating the majority of its other retail stores in the South Suburban Chicago Area (the "Operating Covenant"). The Operating Covenant will be personal to the Village and not assignable. The Operating Covenant is conditioned upon the Village not entering into an agreement with a third party where the third party has the right to enforce the Operating Covenant.

(b) Subject to the terms of the Operating Covenant, the hours of business, the number and types of departments to be operated in Redevelopment Improvements, the particular contents, wares and merchandise to be offered for sale and the services to be rendered, the methods and extent of merchandising and storage thereof, and the manner of operating Redevelopment Improvements shall be within the discretion of Retailer.

(c) Retailer may operate its store in whole or in part by licenses, subtenants or concessionaires; provided, however, that the appearance to the public shall be that of a retail store

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consistent with the appearance of the majority of Retailer's comparable retail stores in comparable regional shopping centers operated in the South Suburban Chicago Area.

(d) Nothing contained herein shall be deemed to impose any radius or other restriction on the activities of Retailer outside of the Redevelopment Project Area.

(e) The Operating Covenant imposed upon the Retailer is conditioned upon both J.C. Penny and Carson, Pirie Scott or acceptable department store replacements being open and operated substantially on both levels of their respective buildings during the period that Sears is required to operate; and 60% of mall space being open and operated during the same period with retail tenants typically found in regional shopping malls similar to Lincoln Mall in the Southern Suburban Chicago area. Acceptable department store replacements for J.C. Penny and Carson, Pirie Scott include, but are not limited to, such stores as Marshall Field, Parisian, Von Maur, Lord & Taylor, Dillard's, Macy's or Nordstrom. Discounters, food stores, variety retailers or home improvement type retailers shall not be considered acceptable replacements. This Operating Covenant shall terminate if a replacement for J.C. Penny and/or Carson, Pirie Scott is not obtained within one year of the closing of either or both stores. Also, if the mall occupancy space falls below 60% and is not corrected within six months, the Operating Covenant shall terminate. In the event that the Retailer closes after this Operating Covenant terminates for the reasons set forth in this Subparagraph, the Village shall be entitled to terminate

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as of the date of closing all payments due to be made by it pursuant to this Agreement as its sole remedy under this Agreement.

This Covenant shall not be violated in the event the Retailer closes the operation of its retail store due to those conditions described in Section 3.8 a(i-iv).

2.2 Retailer to Maintain Retail Facility in a Safe and Sightly Manner in Conformance with all Applicable Laws and Ordinances:

The Retailer shall, at all times, operate its retail facility in conformance with all applicable federal, state and local laws, rules, and regulations including any and all applicable ordinances of the Village.

Retailer shall comply with all applicable laws relating to any Hazardous Materials as hereinafter defined established to have been brought onto the Redevelopment Improvements by Retailer or its employees, agents, or contractors ("Retailer's Hazardous Materials").

Retailer shall be responsible for all costs incurred in complying with any order, ruling or other requirement of any court or governmental body having jurisdiction over the Redevelopment Improvements requiring Retailer to comply with any laws which relate to Retailer's Hazardous Material, including, without limitation, the cost of any required or necessary repair, cleanup or detoxification and the preparation of any closure or other required plans, and shall diligently pursue to completion all such work required in connection with the same, excluding however any such costs relating to Hazardous Material on the Redevelopment

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Improvements established to have been caused by any third party or the acts or omissions of such third party.

Retailer shall indemnify, defend and hold the Village harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, sums paid in settlement of claims and reasonable attorneys' fees) caused by, arising out of, or be related to Retailer's Hazardous Material.

"Hazardous Material" shall mean petroleum products, asbestos, and any other hazardous or toxic substance, material or waste, which is or becomes regulated by any local governmental authority having jurisdiction over the Redevelopment Improvements, the State of Illinois or the United States government (including any agency thereof).

2.3 Separation of Parcels and Obtaining New Tax Parcels:

It shall be the duty of the Retailer to cause to be taken immediately following the execution of this Agreement all measures required in a timely fashion to secure division of the parcels legally described as in Exhibits "A" and "B" into two separate tax parcels.

ARTICLE III

DEVELOPMENT INCENTIVES

3.1 Redevelopment Project Costs Reimbursement: The Village has entered into this Agreement in furtherance of the Redevelopment Plan, and, directly in connection therewith, agrees to reimburse Retailer for a portion of Retailer's Reimbursable

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Costs, to the extent that the costs to be reimbursed qualify as "Redevelopment Project Costs" under the Act and subject to the limitations set forth herein.

Subject to any specific annual and total limitations and the Village's verification in accordance with conditions hereinafter described, the Village agrees to reimburse Retailer for the Retailer's Reimbursable Costs in an amount not to exceed \$2,800,000.

3.2 Submission of Sworn Statement: As a condition precedent to the Village's disbursement to Retailer as reimbursement of the Retailer's Reimbursable Costs, the Retailer shall submit to the Village the Sworn Statement of the Retailer in the form attached hereto as Exhibit "C" with such evidence as the Village shall reasonably require of the Retailer to verify that not less than \$7,000,000 has been expended for Retailer's Reimbursable Costs.

3.3 Administration of the STAF: The Village shall promptly deposit all Tax Increment which it receives in the STAF. Monies deposited in the STAF shall be expended as set forth in Section 3.4 hereof. An examination of the STAF shall be included in the annual audit of the Village's financial statements, a copy of which shall be supplied by the Village to the Retailer and the Mall Owner within a reasonable time after the end of each fiscal year. Deposits to the STAF shall continue until January 1, 2005 or until the date that Tax Increment revenue for 2004 is deposited in the STAF unless the termination of the Redevelopment Project

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Area occurs prior to then in accordance with other provisions of this agreement.

3.4 Application of Funds: Commencing December 31, 1994 and on each December 31st thereafter until whichever first occurs, (a) the aggregate limit of \$2,800,000 of the Retailer's Reimbursable Costs have been reimbursed, or (b) the Redevelopment Project Area is terminated in accordance with the provisions of this Agreement or (c) January 1, 2005, or as this date is extended to include only late payments of 2004 Tax Increment revenue received, the Village shall apply the amount on deposit in the STAF as of the preceding December 1 as follows:

A. Prior to the Base Year, the Village shall make distribution from the STAF as follows:

- (1) To pay for costs incurred by the Village or Retailer in connection with the establishment, and amendment, if any, if required of the TIF District; and
- (2) To reimburse the Village for its reasonable costs of administration related to the Redevelopment Project Area and the STAF; and
- (3) The balance of the funds, if any, remaining in the STAF annually on December 31 shall then be distributed to the taxing districts as surplus including, but not limited to, the Village in the manner provided by the Act.

B. Subject to the limitations set forth herein, commencing with the Base Year, the Village shall make distribution of Tax Increment from the STAF as follows:

- (1) To pay for costs incurred by the Village or Retailer in connection with the establishment, and amendment, if any, if required of the TIF District; and
- (2) To reimburse the Village for its reasonable costs of administration related to the Redevelopment Project Area and the STAF.

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- (3) The Village shall determine the amount of taxes that have been paid on the Parking Parcel in the then current year. The Village shall then deduct from \$500,000 the amounts paid pursuant to (1) and (2) above, an amount equivalent to the amount of taxes paid in the current year on the initial equalized value of real property in the Redevelopment Project Area, and the amount of the real estate taxes paid on the Parking Parcel. The balance of the \$500,000 after these deductions shall be distributed from the STAF to the taxing districts as surplus, including, but not limited to, the Village in the manner provided by the Act.
- (4) The balance then remaining in the STAF will first be used for the defense of the TIF District, if necessary, and then will be paid to the Retailer for Retailer's Reimbursable Costs for the rehabilitation of the old Wieboldt's Building up to the limits set forth herein for which the Retailer has submitted a sworn statement in the form attached hereto as Exhibit "C" in accordance with the requirements of Section 3.2.

C. In the event the real estate taxes are paid on the real property in the Redevelopment Project Area when due, but due to no fault of the Retailer or the Mall Owner, the Cook County Collector fails to make distribution of the Tax Increment to the Village by December 1 of the year that said taxes are paid, but thereafter does make distribution to the Village of said Tax Increment, then the Village shall apply the said Tax Increment in the manner described in this Paragraph 3.4 (A) and (B) within 45 days after the payment of the Tax Increment to the Village.

3.5 Total Limitation: Payments shall continue to be made for a total of eight years commencing with the Base Year. If the maximum amount of Retailer's Reimbursable Costs (i.e., \$2,800,000) is paid prior to the expiration of the time period, there shall be no further obligation to make payments in subsequent years.

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Each year the Retailer shall submit evidence of payment of the real estate taxes on parcels A & B within 30 days after the annual payment of said taxes. No payment of Tax Increment shall be made by the Village unless said real estate taxes are paid, and the Village shall be under no obligation to make distribution to the Retailer prior to 30 days after said evidence is submitted to it.

The amount to be paid shall be determined each year on an annual basis. Except as provided in Section 3.4 (C), there shall be no carry forward or accrual of amounts due. If, for any reason, beyond the control of the Village, there are not adequate funds deposited in the STAF for the year in which payment is to be made, the Village shall not be under an obligation to make distribution.

Without limitation of other remedies the Village has, the Village may terminate the payments of Tax Increment by reason of default on the part of Retailer, pursuant to Section 3.8(d) hereof, subject to the notice and cure provision set forth herein in Section 7.6 hereof. Payments from the STAF under Section 3.4 shall terminate when the maximum amount, \$2,800,000, of Retailer's Reimbursable Costs have been paid, or after the expiration of the eighth year commencing with the Base Year. Under no circumstances shall the amount to be reimbursed to the Retailer for Retailer's Reimbursable Costs exceed \$2,800,000. If after January 1, 2005, \$2,800,000 has not been paid, except as provided in Section 3.4

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(C), there shall be no obligation on the part of the Village to make any further payment.

3.6 Disclaimer of Warranties and Merger: THE VILLAGE HEREBY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, HABITABILITY, OR BUILDABILITY WITH RESPECT TO THE CONDITION OF THE REDEVELOPMENT PROJECT AREA, OR WITH RESPECT TO ANY IMPROVEMENTS TO BE CONSTRUCTED THEREON, OR BENEFITS TO BE OBTAINED THEREFROM. RETAILER ACKNOWLEDGES THAT ALL SUCH WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED BY THE VILLAGE AND WAIVED BY THE RETAILER AS TO THE VILLAGE. ALL PRIOR CORRESPONDENCE, AGREEMENTS, REPRESENTATIONS, COVENANTS (WHETHER WRITTEN OR ORAL) ARE DEEMED MERGED INTO THIS AGREEMENT, IT BEING THE INTENTION OF THE PARTIES THAT THIS AGREEMENT SHALL CONSTITUTE THE ENTIRE UNDERSTANDING BETWEEN THEM REGARDING THE SUBJECT MATTER OF THIS AGREEMENT.

3.7 Indemnification of Village: The Retailer agrees to indemnify, defend and hold harmless the Village, its President, Trustees, employees, agents, representatives and attorneys, in both their official and individual capacities, from and against all claims, causes of action and suits of every kind and nature, including liabilities, damages, costs, expenses and reasonable attorneys' fees brought by third parties growing out of or arising from any and all conduct of the Retailer or its agents, employees, attorneys and representatives in connection with the acquisition and construction of the Redevelopment Improvements and operation

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of the Retailer's business in the Redevelopment Project Area. Further, the Retailer (not the Village or the Mall Owner) shall be solely responsible for the completion of the Redevelopment Improvements.

3.8 Default by Retailer: Payment of Redevelopment Project Costs shall be limited to the extent that the Village has funds actually available in the STAF, and said payment shall cease entirely upon the occurrence of any one or more of the following events of which the Village shall give the Retailer and the Mall Owner written notice (which events shall be deemed a breach of Retailer's obligations hereunder, unless a written waiver thereof shall have been obtained from the Village or said breach shall have been cured pursuant to Section 7.6 hereof):

a. Subject to the Force Majeure and the curative provisions set forth in Section 7.6 hereof, the Retailer fails to occupy the Redevelopment Improvements and initiate retail sales prior to October 15, 1995, or in violation of the Operating Covenant ceases operation of a retail facility at the Redevelopment Project Area prior to January 1, 2005. While the Operating Covenant is in effect, a cessation of business by Retailer, shall not be deemed a cessation of business for the purposes of this Section 3.8 if such cessation:

i. is occasioned by the making of repairs, alterations or renovations due to damage or destruction of a portion of the Redevelopment Improvements where such cessation of business occurs; or

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- ii. is occasioned by an eminent domain taking; or
- iii. is caused by a condition which is less than three (3) consecutive months in duration; or
- iv. subject to Section 7.6(b) is caused by a matter outside of the control of Retailer typically described as Force Majeure.

b. The Retailer sells, assigns, or otherwise transfers the Redevelopment Project Area or any part thereof without first having obtained the written consent of the Village, which consent shall not be unreasonably withheld or delayed. In the event title to the Redevelopment Project Area is held in a land trust, a sale, assignment, conveyance, or other transfer of all, or any portion of the beneficial interest in any such land trust, except where such transfer is with the consent of the Village, which consent shall not be withheld unreasonably, shall be deemed a transfer by the Retailer hereunder. A sale and leaseback to the Retailer whereby the Retailer continues to operate a department store similar to other comparable retail stores in the Chicago Metropolitan Area located in similar shopping centers, shall not be violative of this Subparagraph b and shall not require the Village's consent so long as the Retailer continues to be bound by the terms of this Agreement. The Retailer may advise the Village 30 days written notice of any such transaction.

c. Retailer defaults in payment of, or otherwise fails to pay, any installment of real estate tax assessed against the Redevelopment Project Area, and the Village gives the Retailer

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written notice of the failure to pay and such default or failure in payment is not cured within thirty (30) days of the due date of any such real estate tax installment provided that Retailer may cure a failure to pay any installment of real estate taxes levied against the Redevelopment Project Area, which Retailer deems incorrect, excessive, or otherwise improper, by posting a bond in form and amount acceptable to the Village and sufficient to assure that the Redevelopment Project Area will not be sold for delinquent taxes.

d. Subject to the curative provisions of Article VII, Section 7.6, Retailer defaults and the Village gives the Retailer written notice of the default in the performance or in the observance of, or in compliance with any of its covenants, agreements, or obligations, or breaches or violates any of its representations contained in this Redevelopment Agreement.

Upon an occurrence of a default by the Retailer, the giving of written notice of such default to the Retailer and the failure of the Retailer to cure such default within the time periods allowed as herein provided in Article VII, Section 7.6, the Village may terminate this Agreement by giving written notice of the termination to the Retailer and the Mall Owner and shall be relieved of any and all of its obligations arising pursuant to this Agreement and such obligations on the part of the Village shall be immediately cancelled and without any force or effect. The Village may take whatever action at law and equity which may appear necessary or desirable to enforce the performance and observance

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of any obligation, undertaking, covenant or agreement of the Retailer set forth in this Agreement and shall have all other remedies provided by law and equity and shall be entitled to recover its costs and reasonable attorneys' fees from the Retailer. In the event the Retailer prevails in a cause of action before the Court, it shall be entitled to its reasonable fees and costs. This Paragraph shall not apply, however, to the Retailer's cessation of business due to the decline in occupancy levels below those provided in Article II, Section 2.1(e), in which event the Village's sole remedy shall be to terminate all payments due to be made by it as set forth in Section 2.1(e), and neither party shall be entitled to attorneys' fees or costs.

3.9 Covenants to Run with the Land: On the closing of the purchase of the real property in the Redevelopment Project Area by the Retailer, the Redevelopment Project Area shall be subject to the covenants, reservations, and restrictions set forth herein until the termination of this Agreement. The Village and the Retailer hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land to the extent permitted by law and shall pass to and be binding upon the successors in title to the Redevelopment Project Area throughout the term of this Agreement. Each and every contract, deed, mortgage or other instrument hereinafter executed covering or conveying the Redevelopment Project Area or any portion thereof shall be conclusively held to have been executed, delivered and accepted subject to such

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covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

3.10 Release. On the completion of the covenants and obligations of the Retailer under this Agreement, the Village shall release the Retailer from the obligations and covenants of this Agreement and shall execute and deliver to the Retailer a release in recordable form and reasonably acceptable to the Retailer as to the items contained in this Agreement.

ARTICLE IV

EMPLOYMENT OPPORTUNITIES

4.1 Retailer's Business: Retailer is engaged in the retail business. As of June 30, 1994, Retailer typically employs approximately 62 full time and 281 part time employees at its similar facility at Orland Square Mall.

4.2 Increased Employment by Retailer: Retailer hereby represents to the Village that due to the Redevelopment Improvements and the opening of its retail store in the Redevelopment Project Area, it will increase its employment within the Village to a level of approximately 56 full time and 239 part time employees upon the opening of its store. In consideration of the incentives to be provided by the Village as hereinafter described, the Retailer agrees at all times during the tax years that the Retailer is entitled to receive Retailer's Reimbursable Costs it will use reasonable efforts, taking into account prevailing economic conditions affecting the retail market, to

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maximize employment opportunities within the Village to the extent consistent with sound business practice.

ARTICLE V

COMPLIANCE WITH LAW

5.1 Defense of the Redevelopment Project Area: In the event that any court or governmental agency having jurisdiction over enforcement of the Act and the subject matter contemplated by this Agreement shall determine that this Agreement, or payments to be made hereunder are contrary to law, or in the event that the legitimacy of the Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the Village will defend the integrity of the Redevelopment Project Area and this Agreement, to the extent reasonably required by law. In the event of an adverse lower court or agency ruling, payments shall be suspended during the pendency of any appeal thereof, but such payments shall be reinstated retroactively if such adverse ruling is reversed by the reviewing court or agency. The Village shall not seek to set aside, or otherwise challenge, its obligations under this Agreement. All fees and costs in connection with such defense shall be reimbursed to the Village from amounts in the STAF as described in Section 2.3 hereof.

5.2 Opinion of Counsel for Retailer: Prior to the execution of this Agreement by the Village, Retailer shall furnish the Village with the opinion of Counsel which may be the in-house Counsel for Retailer to the effect that:

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a. The Redevelopment Agreement has been duly executed, and delivered by Retailer; and,

b. The Redevelopment Agreement is a valid, binding and enforceable obligation of the Retailer (subject to customary exceptions as to bankruptcy, insolvency, etc. and the availability of equitable remedies): and

5.3 Opinion of Counsel for Mall Owner: Prior to the execution of this Agreement by the Village, Mall Owner shall furnish the Village with the opinion of a counsel for Mall Owner to the effect that:

a. The Redevelopment Agreement has been duly executed, and delivered by Mall Owner; and,

b. The Redevelopment Agreement is a valid, binding and enforceable obligation of the Mall Owner (subject to customary exceptions as to bankruptcy, insolvency, etc. and the availability of equitable remedies).

ARTICLE VI

NOTICE

6.1 Form: All notices and demands required hereunder shall be in writing and shall be deemed given when delivered personally or three (3) days after deposit in the United States Mail, postage prepaid, certified, with return receipt requested, or one business day after being deposited with a reputable overnight courier service for guaranteed next-day delivery addressed to the parties as follows:

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- If to the Village: Village of Matteson
3625 West 215th Street
Matteson, Illinois 60443
Attn: Village President
- With a copy to: Joseph R. Perozzi, Esq.
c/o Matteson Village Hall
3625 West 215th Street
Matteson, Illinois 60443
- With a copy to: Keck, Mahin & Cate
77 South Wacker Drive
49th Floor
Chicago, Illinois 60601-1693
Attn: Kai A. Nebel.
- If to Retailer: Sears, Roebuck and Co.
3333 Beverly Road
Department 824E
Hoffman Estates, Illinois 60179
Attn: Divisional Vice President
Real Estate
- With a copy to: Sears, Roebuck and Co.
3333 Beverly Road
Department 766
Hoffman Estates, Illinois 60179
Attn: Assistant General Counsel
Real Estate
- If to the Mall Owner: Public Employees' Retirement
Association of Colorado
1300 Logan Street
Denver, Colorado 80203
Attn: Director of Real Estate
- With a copy to: The Prudential Insurance
Company of America
Prudential Plaza, Suite 1300
Chicago, Illinois 60601
Attn: Vice President
Asset Management

The Village agrees to provide the Mall Owner with a copy of any notice (specifically including, without limitation, any default notices) sent to the Retailer, and agrees to provide the Retailer with a copy of any notice sent to the Mall Owner. The Retailer and the Mall Owner agree to provide each other with a copy

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of any notice sent to the Village by the Retailer or Mall Owner, respectively.

ARTICLE VII

GENERAL

7.1 Assessment of Redevelopment Project Area and Special Objections and Tax Protests: The parties covenant and agree that the Redevelopment Project Area shall be assessed for general real estate taxes in the manner provided by Illinois Revised Statutes, as amended from time to time. The Retailer, on its own behalf and for any successors and assigns, agrees during the term of the Operating Covenant, it will not request a full or partial exemption from general real estate taxes for the Redevelopment Project Area or the Parking Parcel. The Retailer, on its own behalf and for any successors and assigns, also covenants and agrees that during the term of the Operating Covenant, it will not file specific objections challenging the assessment in the Circuit Court of Cook County or file or cause to be filed tax rate objections in respect to the Redevelopment Project Area or the Parking Parcel.

7.2 No Recourse Against Public Officials: No recourse under or upon any obligation, covenant or agreement of this Agreement or for any claim based thereon or otherwise in respect thereof shall be had against the elected public officials of the Village or its officers, agents, attorneys and employees, in any amount subject to the terms and conditions herein, and no liability, right or claim at law or in equity shall attach to or shall be incurred by the elected public officials of the Village

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or its officers, agents, attorneys and employees and all such claims are hereby expressly waived and released as a condition of and as a consideration for the execution of this Agreement by the Village, provided such elected officials, officers, agents, attorneys and employees are acting pursuant to lawful authority and are uniformly enforcing and/or administering the laws, ordinances, practices and procedures of the Village.

7.3 **No Waiver:** Failure of any party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

7.4 **Village Action:** Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Village Board unless otherwise expressly provided or required by law, and any such approval may be required to be given only after and if all requirements are inconsistent with this Agreement.

7.5 **Recordation:** This Agreement or a memorandum thereof may be recorded with the Recorder of Deeds and/or Registrar of Titles of Cook County, Illinois, by either party.

7.6 **Curative Period:**

(a) Curative period in the event of a default not caused by Force Majeure:

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If the Retailer shall default in the performance or observance of, or compliance with, any of its covenants, agreements, and obligations, or breach or violate any of its representations contained in this Agreement, then Retailer shall have a thirty (30) day period ("Retailer's Curative Period") after the date of receipt by the Retailer of written notice of default from the Village within which time to correct or cure such default, breach, or violation. In the event the Retailer commences to cure the default, breach or violation within the thirty (30) days but said default, breach or violation cannot be reasonably cured in said period, said period shall be extended by a period not to exceed one hundred twenty (120) days. If, within Retailer's Curative Period, or as said Period may be extended, Retailer cannot cure or correct such default, breach, or violation, then the Village shall be relieved of making any further payments hereunder, in addition to all other remedies available to the Village under the law and equity. The Village at its sole discretion may extend the Retailer's Curative Period if and to the extent that it determines to be in the best interests of the Village.

(b) Curative period in the event of a default caused by a Force Majeure:

In the event of the occurrence of Force Majeure which prevents the Retailer from performing its obligations set forth in Article II, Sections 2.1(a) and (b) and Article III, Section 3.8(a) under this Agreement, the time for the Retailer to perform its obligations hereunder shall be extended by the duration of the Force Majeure, said extension,

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however, to have a duration of not more than nine months from the date of the occurrence of the Force Majeure. Said extension shall be effective only if the Retailer gives written notice to the Village of the occurrence of the Force Majeure within 60 days of its occurrence and said notice specifically describes the Force Majeure and states the time necessary to recommence performance as a result of the occurrence of the Force Majeure.

7.7 Incorporation of Recitals: The definitions and recitals set forth in the Definition of General Terms and Preamble are hereby specifically incorporated into this Agreement.

7.8 Entire Agreement: The terms and conditions set forth in this Agreement and its Exhibits supersede all prior oral and written understandings and constitute the entire agreement between the Village and Retailer and Mall Owner. The terms and conditions of this Agreement may be amended by the written consent of all the parties hereto.

7.9 Binding Upon Successors in Interest: This Agreement shall be binding upon the parties hereto and their respective heirs, successors, administrators, assigns, or other successors in interest. This Agreement shall not be assigned by the Retailer, except as provided herein.

7.10 Titles of Paragraphs: Titles of the several parts, paragraphs, sections, or articles of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any provision.

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7.11 Termination: This Agreement shall terminate upon the final disbursement of Retailer's Reimbursable Costs under Article III hereof.

7.12 Liability of Mall Owner: The officers, trustees, directors, employees and agents of Mall Owner, in their capacities of such, shall not be responsible for Mall Owner's covenants hereunder and shall not be otherwise liable under this Agreement. The Village acknowledges and agrees that the Mall Owner is not responsible or otherwise liable for the acts or omissions of Retailer, including any defaults by Retailer hereunder.

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, this Agreement is executed as of the date first written above.

VILLAGE OF MATTESON,
Cook County, Illinois

By: Mark W. Stuber
Village President

[VILLAGE SEAL]

ATTEST:

Rita Matta, Deputy
Village Clerk

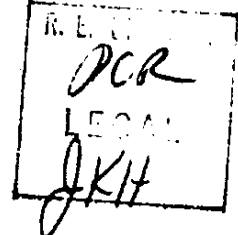
SEARS, ROEBUCK AND CO.,
a New York corporation

By: Barry D. Kaufman
Its: Barry D. Kaufman
Divisional Vice President
Real Estate

[SEAL]

ATTEST:

Robert Bramante, Jr.
Its: Assistant Secretary



PUBLIC EMPLOYEES' RETIREMENT
ASSOCIATION OF COLORADO, an
association created under the laws
of the State of Colorado

BY: THE PRUDENTIAL INSURANCE COMPANY OF
AMERICA, A New Jersey corporation, advisor
to and authorized agent of Public Employees'
Retirement Association of Colorado

[SEAL]

BY: P. Joe Poggioli
Its: Vice President

ATTEST:

Walter Kimmell
Its: Assistant Secretary

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Exhibit A

LEGAL DESCRIPTION OF REDEVELOPMENT PROJECT AREA

Legal description for the former Wieboldt Stores, Inc. Building, in Lincoln Mall, in the Village of Matteson, Illinois (Existing Building).

That part of lot 5 in Lincoln Mall, being a Subdivision of part of the South West quarter of Section 22, Township 35 North, Range 13, East of the Third Principal Meridian, according to the plat thereof recorded October 30, 1978, as Document No. 24693781, bounded and described as follows:

Commencing at the most Southerly corner of lot 5 in said Lincoln Mall Subdivision; Thence North $35^{\circ}00'00''$ East, a distance of 489.33 feet to an angle point in said lot 5; Thence North $10^{\circ}00'00''$ West, a distance of 180.00 feet to an angle point in said lot 5; Thence North $50^{\circ}00'00''$ East, a distance of 31.18 feet to an angle point in said lot 5; Thence North $10^{\circ}00'00''$ West, a distance of 130.48 feet to an angle point in said lot 5; Thence North $55^{\circ}00'00''$ West, a distance of 21.86 feet to an angle point in said lot 5; Thence North $10^{\circ}00'00''$ West, a distance of 19.80 feet to an angle point in said lot 5; Thence North $55^{\circ}00'00''$ West along the Northeasterly line of said lot 5, a distance of 0.05 feet to the point of beginning of land herein to be described; Thence continuing North $55^{\circ}00'00''$ West along the Northeasterly line of said lot 5, a distance of 291.06 feet, to the Northwesterly exterior face of the former Wieboldt Stores, Inc. building, said point also being distant 0.06 feet Southeasterly of the most Northerly corner of said lot 5; Thence South $34^{\circ}58'37''$ West along the Northwesterly exterior face of said building, a distance of 354.65 feet to the most Westerly corner of said building; Thence South $55^{\circ}02'44''$ East along the Southwesterly exterior face of said building, a distance of 99.08 feet to an angle point in said building; Thence North $35^{\circ}02'09''$ East along the Southeasterly exterior face of said building, a distance of 57.47 feet to the intersection with the Southwesterly face of a one story brick addition to said building; Thence South $55^{\circ}12'19''$ East along the Southwesterly face of said one story addition, a distance of 14.38 feet to an angle point in said one story addition; Thence North $35^{\circ}10'41''$ East along the Southeasterly face of said one story addition, a distance of 38.35 feet to the intersection with the Southwesterly face of said former Wieboldt Stores, Inc. building; Thence South $55^{\circ}01'00''$ East along the Southwesterly exterior face of said building, a distance of 177.31 feet to the most Southeasterly corner of said building; Thence North $35^{\circ}00'00''$ East along the Southeasterly exterior face of said building, a distance of 258.65 feet to the point of beginning of land herein described, all in Cook County, Illinois.

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Exhibit B

LEGAL DESCRIPTION OF THE PARKING PARCEL

Legal Description of the former Wieboldt Stores, Inc. Parking Areas and Driveways, in Lincoln Mall, in the Village of Matteson, Illinois.

Lot 5 in Lincoln Mall, being a Subdivision of part of the South West quarter of Section 22, Township 35 North, Range 13, East of the Third Principal Meridian, according to the plat thereof recorded October 30, 1978, as Document No. 24693781, except that part thereof bounded and described as follows:

Commencing at the most Southerly corner of lot 5 in said Lincoln Mall Subdivision; Thence North $35^{\circ}00'00''$ East, a distance of 489.33 feet to an angle point in said lot 5; Thence North $10^{\circ}00'00''$ West, a distance of 180.00 feet to an angle point in said lot 5; Thence North $50^{\circ}00'00''$ East, a distance of 31.18 feet to an angle point in said lot 5; Thence North $10^{\circ}00'00''$ West, a distance of 130.48 feet to an angle point in said lot 5; Thence North $55^{\circ}00'00''$ West, a distance of 21.06 feet to an angle point in said lot 5; Thence North $10^{\circ}00'00''$ West, a distance of 19.80 feet to an angle point in said lot 5; Thence North $55^{\circ}00'00''$ West along the Northeasterly line of said lot 5, a distance of 0.05 feet to the point of beginning of land herein to be described; Thence continuing North $55^{\circ}00'00''$ West along the Northeasterly line of said lot 5, a distance of 291.06 feet, to the Northwesterly exterior face of the former Wieboldt Stores, Inc. building, said point also being distant 0.06 feet Southeasterly of the most Northerly corner of said lot 5; Thence South $34^{\circ}58'37''$ West along the Northwesterly exterior face of said building, a distance of 354.65 feet to the most Westerly corner of said building; Thence South $55^{\circ}02'44''$ East along the Southwesterly exterior face of said building, a distance of 99.08 feet to an angle point in said building; Thence North $35^{\circ}02'09''$ East along the Southeasterly exterior face of said building, a distance of 57.47 feet to the intersection with the Southwesterly face of a one story brick addition to said building; Thence South $55^{\circ}12'19''$ East along the Southwesterly face of said one story addition, a distance of 14.38 feet to an angle point in said one story addition; Thence North $35^{\circ}10'41''$ East along the Southeasterly face of said one story addition, a distance of 38.35 feet to the intersection with the Southwesterly face of said former Wieboldt Stores, Inc. building; Thence South $55^{\circ}01'00''$ East along the Southwesterly exterior face of said building, a distance of 177.31 feet to the most Southeasterly corner of said building; Thence North $35^{\circ}00'00''$ East along the Southeasterly exterior face of said building, a distance of 258.65 feet to the point of beginning of land herein described, all in Cook County, Illinois.

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Exhibit C

RETAILER'S REIMBURSABLE COSTS

Sears, Roebuck and Co. (the "Retailer") does hereby certify to the Village of Matteson as follows:

1. That Sears has incurred and paid for those items as shown below, each of which constitutes a "Retailer's Reimbursable Costs" as defined in that certain Redevelopment Agreement dated _____, 1994 between the Village of Matteson, the Mall Owner and the Retailer:

● Architectural, engineering, planning and support drawings	\$
● Demolition and preparatory work	\$
● Construction, leasehold improvements, building system repairs and upgrades	\$
● Fixtures, furnishings and electronic equipment	\$
● Inspection and testing fees	\$
● Legal and engineering fees	\$
● Permits and licenses	\$
● Assembly, trim-out and merchandising	\$ _____
TOTAL COSTS	\$(7,000,000 or more)

IN WITNESS WHEREOF, I have hereunto affixed my signature this _____ day of 19__.

[RETAILER]

By: _____
Title: Divisional Vice President,
Construction

SUBSCRIBED AND SWORN TO
before me this _____ day
of _____, 19__.

Notary Public